

Deputy Joe Huddleston

June 04, 2015

NANCY ROELL

v.

HAMILTON COUNTY, OHIO/BOARD OF COMMISSIONERS, et al.

1:14-CV-637



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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

NANCY ROELL)
as executrix of the estate of)
GARY L. ROELL, SR.,)
Plaintiff,)
vs.) CASE NO.
HAMILTON COUNTY, OHIO/BOARD OF) 1:14-CV-637
COMMISSIONERS, et al.)
Defendants.)

Deposition of: DEPUTY JOE HUDDLESTON
Pursuant to: Notice
Date and Time: Thursday, June 4, 2015
10:02 a.m.
Place: Hamilton County
Prosecutor's Office
230 East Ninth Street
Suite 4000
Cincinnati, Ohio 45202
Reporter: Wendy Haehnle
Notary Public - State
of Ohio
Videographer: John Bonavita

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20 Nancy Roell
21 Deputy Matthew Alexander
22 Deputy Willy Dalid

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1 DEPUTY JOE HUDDLESTON

2 a defendant herein, having been duly sworn, was
3 examined and deposed as follows:

4 EXAMINATION

5 BY MR. GERHARDSTEIN:

6 Q. Good morning.

7 State your name, please.

8 A. Deputy Joe Huddleston.

9 Q. What's your highest level of
10 education?

11 A. High school.

12 Q. Where did you graduate from?

13 A. Oak Hills.

14 Q. What year?

15 A. 2004.

16 Q. What's your present job?

17 A. I'm employed with the Hamilton County
18 Sheriff's Department.

19 Q. And you're a deputy?

20 A. Correct.

21 Q. And you started with the Hamilton
22 County Sheriff's Office on April 7th, 2005?

23 A. Yes.

24 Q. And that was in corrections?

25 A. Yes.

1 Q. And then you went to the road patrol on
2 November 7th, 2012 --

3 A. Yes.

4 Q. -- is that right?

5 A. Yes.

6 Q. And how did you get from corrections to
7 the road patrol?

8 A. Took the road patrol exam, went through
9 the interview process, and got promoted.

10 Q. Do -- in your experience, do all the
11 road patrol positions get filled by going through
12 corrections first?

13 A. They do now -- or not -- not
14 corrections. But you have to be employed with
15 the Hamilton County Sheriff's Department now.

16 Q. So what did --

17 A. Prior, you did not have to.

18 Q. Prior meaning when?

19 A. When Simon Leis was still in office
20 back in 2012, you could have been a special.

21 Q. Oh, like auxiliary?

22 A. Yes.

23 Q. All right. And what are the other
24 options for being employed with the Hamilton
25 County Sheriff's Office, other than being in

1 corrections, if you wanted to take the road
2 patrol exam?

3 A. You could go to court services.

4 Q. Okay.

5 A. You could go to EMD.

6 Q. What's that?

7 A. Electronic Monitoring.

8 There's numerous things; records.

9 Q. Okay. How old are you?

10 A. Twenty-nine.

11 Q. Are you married?

12 A. Yes.

13 Q. Any kids?

14 A. Got one and one on the way.

15 Q. Congratulations.

16 A. Thank you.

17 Q. Have you ever sued anyone or been
18 sued?

19 A. No.

20 Q. Have you ever filed for bankruptcy?

21 A. No.

22 Q. Have you taken any medications today?

23 A. No.

24 Q. You're five-ten?

25 A. About six foot.

1 Q. Six foot? Okay.

2 And how much do you weigh?

3 A. Roughly 190.

4 Q. And was that your height and weight on
5 August 13th, 2013?

6 A. I believe so.

7 Q. What did you do to get ready for this
8 deposition?

9 A. Just met with the lawyers.

10 Q. All right. Now, I don't want you to
11 tell me what you said to the lawyers and what
12 they said to you.

13 But what documents did you review?

14 A. Reviewed my statement, the complaint.

15 Q. Anything else?

16 A. Discussed Taser policy.

17 Q. Anything else?

18 A. Not that I recall.

19 Q. You said you reviewed your statement.
20 What's that look like?

21 A. It was a piece of paper with everything
22 I said.

23 Q. Did you write a statement?

24 A. I did not.

25 MS. SEARS: For the record --

1 BY MR. GERHARDSTEIN:

2 Q. So --

3 MS. SEARS: For the record, we had the
4 written statements transcribed --

5 MS. WOEBER: The video --

6 MS. SEARS: -- the video statements we
7 had transcribed.

8 MR. GERHARDSTEIN: Okay.

9 MS. SEARS: He looked at that
10 transcription and -- and looked at the
11 videotape, just to clar -- you know --

12 MR. GERHARDSTEIN: All right. That's
13 helpful.

14 MS. SEARS: -- to clarify. Yeah. I
15 don't want to waste your time.

16 MR. GERHARDSTEIN: We should have
17 cooperated on that. We would have saved
18 some money.

19 MS. SEARS: Yeah. Maybe the next time.

20 MR. GERHARDSTEIN: Yeah, right. Think
21 about it --

22 MS. SEARS: Live and learn, I guess.

23 MR. GERHARDSTEIN: Yeah.

24 BY MR. GERHARDSTEIN:

25 Q. Prior to August 13th, 2013, had you

1 ever discharged a firearm at a suspect?

2 A. No.

3 Q. Since August 13th, 2013, have you ever
4 discharged a firearm at a --

5 A. No.

6 Q. -- suspect?

7 Prior to August 13th, 20 --

8 MS. SEARS: Can I just caution him to
9 let Mr. Gerhardstein finish his question?
10 The court reporter needs that, you know, so,
11 you know, make sure he's finished before you
12 respond.

13 I'm sorry, Al. I didn't mean to
14 interrupt you. Pardon me.

15 MR. GERHARDSTEIN: That's all right.

16 But, you know, if she's going to object
17 to you before she objects to me, we got --
18 we're going to have a long day.

19 MS. SEARS: It will. It probably will
20 be.

21 BY MR. GERHARDSTEIN:

22 Q. Prior to August 13th, 2013, had you
23 ever discharged a Taser at a subject?

24 A. Yes.

25 Q. All right. Tell me about that.

1 A. It was in the jail.

2 Q. All right. Tell me about that.

3 A. It was -- I was ordered to by a
4 lieutenant. It was on the CERT team to gain
5 control of a suspect -- or an inmate.

6 Nobody else on the team at the time I
7 was working was certified in the Taser. So he
8 had me come up to the floor and tase the -- the
9 inmate after he gave them several verbal
10 orders.

11 Q. What year was that?

12 A. I do not recall.

13 Q. You were first certified on an X26,
14 right?

15 A. Correct.

16 Q. And that was 2010?

17 A. I'm not sure what year exactly.

18 Q. But it was obviously after you were
19 certified?

20 A. Yes.

21 Q. Do you remember the name of the
22 inmate?

23 A. I do not.

24 Q. If I wanted to get -- and you filled
25 out a -- a report regarding that use of force

1 inside the jail, right?

2 A. Most likely, yes.

3 Q. How would I describe that incident in
4 order to secure a copy of that report?

5 A. It was probably a -- a CERT callout.

6 Q. And how do you spell CERT?

7 A. C-E-R-T.

8 Q. And what's that stand for?

9 A. Corrections Emergency Response Team.

10 Q. And were you on the response team?

11 A. Not at the time of that.

12 Q. You eventually were?

13 A. Yes.

14 Q. And the lieutenant that ordered you to
15 use the Taser, what was his name?

16 A. He is now a captain -- it's Captain
17 Daniel Sheffer -- Schleffer.

18 Q. How do you spell that?

19 A. S-c-h-e-l -- S-c-h-l-e-f-f-e-r, I
20 believe.

21 Q. And do you remember what block or
22 location in the jail that Taser deployment was?

23 A. I believe it was the -- the third
24 floor. It was a female housing unit.

25 Q. What was the inmate doing that caused

1 the CERT team to be called out?

2 A. I don't recall 100 percent why they
3 were called. I wasn't up on the floor at the
4 time.

5 Said it was just a word -- she was
6 refusing to -- refusing their commands.

7 When I got there, they handed me the
8 Taser that they used. They were still refusing
9 the commands. And I tased her.

10 Q. The command to an inmate who is in a
11 cell is probably to cuff up, right?

12 MS. SEARS: Objection. Objection.

13 MR. GERHARDSTEIN: You can --

14 MS. SEARS: If you know. I mean, if
15 you know of a command like that.

16 A. I don't know.

17 BY MR. GERHARDSTEIN:

18 Q. Well, you worked in the jail, right?

19 A. Right.

20 Q. So when you -- the inmate was alone in
21 the cell, right? Is that correct?

22 MS. SEARS: Which inmate? Are you
23 talking about this inmate?

24 MR. GERHARDSTEIN: No, no. I'm talking
25 about the inmate that he tased.

1 A. Yes.

2 BY MR. GERHARDSTEIN:

3 Q. Okay. So if you want to get control of
4 that inmate, you want the inmate to put her hands
5 through the cuff port --

6 A. Right.

7 Q. -- so that you can cuff them, right?

8 A. Correct.

9 Q. Is that the command you were giving --

10 A. I wasn't giving the commands.

11 Q. -- before you tased her?

12 Is that the command that was given to
13 her --

14 A. I don't recall.

15 Q. -- before you tased her?

16 MS. SEARS: Again, make sure you let
17 Mr. Gerhardstein --

18 THE WITNESS: Sorry.

19 MS. SEARS: -- finish his question.

20 THE WITNESS: Okay.

21 MS. SEARS: Okay? Because you're
22 talking over him.

23 BY MR. GERHARDSTEIN:

24 Q. So, at any rate, you tased her.

25 Where did the prongs land on her?

1 A. I don't recall.

2 Q. Did you tase her in the front or the
3 back?

4 A. I believe it was the back.

5 Q. And did the Taser take effect?

6 A. It did.

7 Q. And then what happened?

8 A. Then the CERT team went in and grabbed
9 her and cuffed her up.

10 Q. And did they cuff her while she was
11 under power?

12 A. I do not recall.

13 Q. Have you tased anyone else?

14 A. Prior?

15 Q. Yes.

16 A. No.

17 Q. How about since August 13th, 2013?

18 A. Yes.

19 Q. Since the incident with Mr. Roell, have
20 you tased anyone?

21 A. Yes.

22 Q. Tell me about that.

23 A. It was a pursuit, the subject driving a
24 stolen vehicle. He crashed, took off on foot
25 trying to flee.

1 Q. When was this?

2 A. I don't remember.

3 Q. Was it this year?

4 A. No.

5 Q. Was it between the tasing of Mr. Roell
6 and the end of 2013?

7 A. I don't believe so.

8 Q. So it was in 2014?

9 A. Yes.

10 Q. And what was the subject's name?

11 A. I don't remember off the top of my
12 head.

13 Q. Do you know the location?

14 A. I believe it was Reading Road.

15 Q. And you filled out a -- did you fill
16 out any paperwork with respect to that use of
17 force?

18 A. I just filled out the -- the NIBRS --

19 Q. What's NIBRS?

20 A. -- report.

21 It's our report.

22 Q. What's NIBRS mean?

23 A. It's just our report that we do.

24 Q. You fill it out on a computer?

25 A. No, by hand.

1 Q. How do you spell NIBRS?

2 A. N-i-b-e-r-s (sic).

3 Q. Is that a report specific to tasing?

4 A. No.

5 Q. It's just the supplemental --

6 A. Right.

7 Q. -- use of force report?

8 A. It's just a -- it's a -- it's a report.

9 That's -- that's our report.

10 Q. And if I wanted to get a copy of that
11 report, do you know how it's filed or
12 identified?

13 A. I believe everything goes down to
14 records.

15 Q. Okay. Was it in the winter or the
16 spring or the summer?

17 A. I believe it was probably -- probably
18 around the fall.

19 Q. Was the suspect injured?

20 A. Yes.

21 Q. How so?

22 A. Just had little cuts on his face.

23 Q. Where did you tase the suspect?

24 A. In the back.

25 Q. Any other tasings?

1 A. No.

2 Q. Have you had any experiences, other
3 than Mr. Roell and the ones we've talked about,
4 when you arrested a suspect and the suspect was
5 injured during the arrest?

6 A. Can you repeat the question?

7 Q. Have you had any experiences where the
8 suspect was injured during the arrest, other than
9 the ones we've talked about?

10 A. Yeah.

11 Q. Tell me about those.

12 A. I don't recall.

13 Q. How many?

14 A. I do not recall. If they're injured,
15 we'll -- we'll call for a squad.

16 Q. What's the most serious injury you've
17 experienced, other than Mr. Roell?

18 MS. SEARS: I'm going to object to the
19 characterization of that as an injury
20 regarding Mr. Roell.

21 But you can answer, certainly, the
22 question.

23 A. I -- I don't recall 100 percent. I --
24 I don't know.

25 BY MR. GERHARDSTEIN:

1 Q. Any other deaths in custody?

2 A. No.

3 Q. Any hospitalizations --

4 A. No.

5 Q. -- of suspects?

6 Have you been disciplined since you've
7 been on the road patrol?

8 A. No.

9 Q. Any discipline while you were in
10 corrections?

11 A. No.

12 Q. Any written warnings or verbal warnings
13 while you were in corrections?

14 A. Yes.

15 Q. Tell me about those.

16 A. For parking on the street at
17 Queensgate, trying to go to work, and removing my
18 name from the overtime list while at Queensgate
19 working in the jail.

20 Q. Anything else?

21 A. No.

22 Q. Give me some idea -- give me a summary
23 of the training you've received since you've
24 joined the Hamilton County Sheriff's Office.

25 A. What kind of training are you looking

1 for?

2 Q. All the training.

3 A. I mean, we do --

4 Q. Start with corrections.

5 Did you go -- did you go to any academy
6 or anything to get into corrections?

7 A. Corrections, they run their own
8 academy. The sheriff's department runs their own
9 academy.

10 It's a two-month long academy, I
11 believe.

12 Q. And that was in 2005?

13 A. Correct.

14 Q. And were there written tests --

15 A. Yes, there were.

16 Q. -- in that academy?

17 A. Yes.

18 Q. And was there scenario-based training
19 in that academy?

20 A. I believe so.

21 Q. Were you graded in that academy?

22 A. Yes.

23 Q. So is there a training file or a -- I
24 don't see any record of that in your personnel
25 file.

1 Where would I find the records of your
2 training at the corrections academy?

3 A. You'd have to go with the records
4 department, I guess.

5 Q. All right. But you recall that there
6 was graded training in 2005?

7 A. I believe so, yes.

8 Q. All right. Have you ever seen any
9 summary of all the course work you've taken?

10 A. I have not.

11 Q. Is there a database that you have
12 access to where you can look up all the training
13 you've done?

14 A. No.

15 Q. All right. So you did the sheriff
16 academy when you joined corrections.

17 And then what other training did you
18 have after that?

19 A. After that, I went to Butler Tech
20 Police Academy.

21 Q. And that was 2010?

22 A. Correct.

23 Q. Between 2005 and 2010 at Butler Tech,
24 did you have any training, any in-service or any
25 other training?

1 A. I don't recall.

2 Q. And Butler Tech was the OPOTA patrol
3 officer course, right?

4 A. Right.

5 Q. And you graduated from that. Was that
6 graded?

7 A. Yes.

8 Q. How about since the Butler Tech course,
9 have you had any other training?

10 A. Just the requalifications through the
11 sheriff's department.

12 Q. Tell me about those.

13 A. Well, we get requalified on the
14 Taser --

15 Q. Okay.

16 A. -- requalified on your weapons,
17 everything you carry while on duty.

18 Q. In order to -- well, first of all, you
19 didn't get Taser certified through Butler Tech,
20 right?

21 A. Right.

22 Q. That was a separate course?

23 A. Right.

24 Q. And who taught that?

25 A. Sheriff's department.

1 Q. And do you know who in the sheriff's
2 department?

3 A. Lee Edwards.

4 Q. Is he still there?

5 A. Yes.

6 Q. Do you know his title?

7 A. He doesn't -- just a range master.

8 Q. Is he a master Taser trainer?

9 A. He's a Taser trainer. I don't know if
10 he's a master Taser trainer.

11 Q. And he -- he taught the X26 course?

12 A. Yes.

13 Q. Do you know what version of the Taser
14 materials he used?

15 A. I do not know.

16 Q. There's a series of PowerPoints, right?

17 A. Right.

18 Q. And you took those in 2010. Is that
19 version 18?

20 A. (Indicating.)

21 Q. Okay.

22 A. I don't recall.

23 Q. As part of the X26 training, most
24 courses include an opportunity to actually shoot
25 the Taser.

1 Did you have that?

2 A. Yes.

3 Q. Was that graded?

4 A. I don't -- I don't remember.

5 Q. Describe for me the exercise that you
6 went through in terms of shooting the Taser in
7 order to qualify.

8 A. It was a -- it was a hands-on exercise.
9 They had -- my particular one, they had a subject
10 in the bathroom. He was in a RedMan suit, so he
11 couldn't get injured. But he came out and he
12 came towards us with a baseball bat in hand,
13 refused commands, and kept coming towards us and
14 we pulled our Taser.

15 Q. Were you stationary at the time you
16 shot the Taser?

17 A. In the training?

18 Q. Yeah.

19 A. I don't remember.

20 Q. And then when you shot at the person
21 who was holding the baseball bat, where did you
22 -- where did the prongs strike him?

23 A. I -- I don't recall.

24 Q. When you qualified on the X26, did you
25 learn anything about how to measure the amount of

1 energy your particular unit was outputting?

2 A. No.

3 Q. At any time, whether you were using an
4 X26 or an X2, have you ever been asked by the
5 Hamilton County Sheriff to use any device that
6 would measure the amount of energy your Taser
7 unit is putting out?

8 A. No.

9 Q. Other than shooting at the person who
10 was in protective clothing, did you have to do
11 anything else in terms of demonstrating your
12 proficiency with respect to shooting the Taser?

13 A. No.

14 Q. Since 2010, have you had to shoot the
15 X26 any other -- in any other setting in order to
16 requalify to carry the weapon?

17 A. No.

18 Q. So your certification from 2010
19 continues to authorize you to carry an X26; is
20 that right?

21 A. Back in 2010, yes.

22 Q. All right. And what about in 2011?
23 Did you have to do anything special to --

24 A. Just requalify.

25 Q. Okay. So what's that mean,

1 requalify?

2 A. Go sit through the -- the Taser
3 training again and deploy the Taser.

4 Q. Do you only shoot it once as part of
5 that requalification?

6 A. I don't -- I don't remember. I don't
7 recall 100 percent.

8 I -- I don't think so. I think you
9 shoot it twice.

10 Q. Do you ever include in your training an
11 opportunity to run up some stairs and then shoot
12 or -- or -- or do some aerobic exercise and then
13 have to shoot right away?

14 A. Now I think we do.

15 Q. How about prior to August 13, 2013?
16 Did you have to do any aerobic exercise as part
17 of your shooting of the Taser when you were
18 requalifying?

19 A. I -- I don't recall.

20 Q. And who was in charge of your
21 requalifying?

22 A. It was the same guy, Lee Edwards.

23 Q. Do you know what records are maintained
24 to document your requalification on the Taser?

25 A. I don't -- I do not.

1 Q. Prior to August 13th, 2010, were you
2 instructed at all about the preferred target
3 zone?

4 A. 2010?

5 Q. Yeah. I'm -- I'm sorry. Thank you.

6 Prior to August 13th, 2013, were you
7 instructed at all about the preferred target
8 zone?

9 A. Yeah.

10 Q. Tell me about that.

11 A. Tell you about the prefer areas?

12 Q. Yeah.

13 A. The preferred areas are from the
14 breastbone down on the front side or the back.

15 Q. And why are those the preferred
16 areas?

17 A. Because they like you to stay away from
18 the upper chest, the heart area.

19 Q. And why is that?

20 A. Just because they'd rather not have the
21 electrodes going in the area of the upper -- the
22 chest.

23 Q. Because there's some risk of a cardiac
24 event, right?

25 A. There could be, yes.

1 Q. Right. And you learned that in your
2 Taser training, right?

3 A. Yes.

4 Q. And that's true whether you're using
5 the X26 or the X2, right?

6 A. Correct.

7 Q. What's the difference between the X26
8 and the X2?

9 A. It's just the X -- X2 has two
10 cartridges already ready to go. The X26, in
11 order to reload, you have to take the one off,
12 grab the other one, and put it back on.

13 Q. And do they discharge the same type of
14 cartridge?

15 A. The X2 or --

16 Q. The X26 and the X2?

17 A. I mean, they're different -- different
18 looking cartridges. But it's the same -- same
19 principle, yes.

20 Q. Okay. You were certified
21 November 13th, 2012 on the X2, right?

22 A. I believe so, yeah.

23 Q. And who was your instructor for that?

24 A. I'm not sure if it was Lee Edwards or
25 Tony Orue.

1 Q. Did that course also involve going
2 through Taser supplied PowerPoints and then
3 discharging the X2?

4 A. Correct.

5 Q. And were you graded in your
6 certification on the X2?

7 A. Yes.

8 Q. Do you know if there's a separate set
9 of records maintained by Tony Orue or Lee Edwards
10 reflecting the training that they've done for all
11 of you?

12 A. I don't.

13 Q. When you went to the road patrol in
14 November of 2012, was there a period when there
15 was a field training opportunity?

16 A. Yes.

17 Q. Did you have a field training officer
18 assigned to you?

19 A. Yes.

20 Q. Who was that?

21 A. I had three. Actually, I had four.

22 Q. Okay.

23 A. My primary was Corporal Viner, Rob
24 Viner.

25 Q. How do you spell that?

1 A. V-i-n-e-r.

2 Q. Okay.

3 A. The second one was

4 Corporal Ken Mullins, M-u-l-l-i-n-s.

5 Q. Okay.

6 A. I had Corporal Bryan Robben for a few

7 days, R-o --

8 Q. Okay.

9 A. R-o-b-b-e-n, I believe.

10 Q. All right.

11 A. And then I had Deputy Steve Boster.

12 Q. Foster?

13 A. Boster, B.

14 Q. Okay.

15 A. B-o-s-t-e-r.

16 And then I went back to

17 Corporal Viner.

18 Q. When did your field training

19 conclude?

20 A. I believe it was February 2013.

21 Q. And were there records kept of your

22 field training work?

23 A. Yes.

24 Q. And where are those records?

25 A. Most likely with Tony Orue or the

1 training division.

2 MR. GERHARDSTEIN: We don't have any of
3 that, do we?

4 BY MR. GERHARDSTEIN:

5 Q. Prior to August 13, 2013, who in the
6 Hamilton County Sheriff's Office was responsible
7 for training on use of force generally?

8 A. Probably somebody in the training
9 department, probably Lee Edwards or -- I don't
10 know.

11 Q. Were there trainers other than Tony
12 Orue and Lee Edwards?

13 A. I'm sure there are.

14 Q. Is there a training -- is there a boss
15 in charge of training?

16 A. There is now, but I'm not sure who it
17 is.

18 Q. On August 13, 2013, were there any
19 deputies who were specifically assigned to
20 respond to mentally ill people?

21 A. That I don't know.

22 Q. You didn't know about them?

23 A. Right.

24 Q. Some probate courts have deputies
25 assigned to them to execute their orders and

1 warrants.

2 Does -- do you know whether the
3 sheriff's office has deputies assigned to the
4 probate court?

5 A. I'm sure they do.

6 Q. And do you know any of those
7 deputies?

8 A. I do not.

9 Q. Have you ever done any of that work?

10 A. No.

11 Q. So what specific training did you have
12 regarding handling mentally ill people prior to
13 August 13th, 2013?

14 A. In the police academy.

15 Q. Okay. That's Butler Tech?

16 A. Correct.

17 Q. Anything else?

18 A. Not that I recall.

19 Q. Prior to August 13th, 2013, did you
20 ever pink-slip any citizen?

21 A. Probably.

22 Q. Tell me about that.

23 A. I don't recall who. I don't recall
24 who.

25 Q. But you -- you had encounters with

1 mentally ill people --

2 A. Yes.

3 Q. -- prior to August 13, 2013, right?

4 A. Yes.

5 Q. Are there any encounters in particular
6 that you recall?

7 A. No.

8 Q. Are there any mentally ill people that
9 you took into custody that you can recollect
10 right now?

11 A. No.

12 Q. Did you have any situations prior to
13 August 13th, 2013 where you had to use force on
14 people who were experiencing mental health
15 episodes?

16 A. No.

17 Q. How about since August 13th, 2013? Did
18 you have any situations where you had to use
19 force on persons experiencing mental health
20 episodes?

21 A. No.

22 MS. SEARS: I'm just going to object to
23 the term mental health episodes, as to what
24 that is.

25 But if you understand the question, you

<http://www.yeslaw.net/help>

1 can answer it. You clearly do, because you
2 just answered it.

3 So go ahead.

4 A. No.

5 BY MR. GERHARDSTEIN:

6 Q. What about when you worked in
7 corrections? Did you encounter mentally ill
8 inmates?

9 A. Yes.

10 Q. Did you ever work the psych unit?

11 A. Yes.

12 Q. Tell me about that. Was that a regular
13 assignment or did you rove or how did that --

14 A. It was a regular assignment for me.
15 They pretty much -- it's pretty much
16 selective who goes down there.

17 Q. And how long did you work that?

18 A. It was -- worked there a while. I
19 don't know the exact timeframe.

20 They have different buildings. You're
21 assigned to a certain building.

22 Q. And why did you -- did you volunteer to
23 work in the psych unit?

24 A. Yeah.

25 Q. And why did you volunteer to do that?

<http://www.yeslaw.net/help>

1 A. Because I like helping those -- those
2 individuals.

3 Q. So what was the selection process?

4 A. It's just your -- how you talk to
5 inmates, how you deal with inmates, how you can
6 calm situations down.

7 Q. Did you go through some exercises or
8 testing in order to get selected to work on the
9 psych unit?

10 A. No.

11 Q. Were there any special policies or
12 procedures that you were to follow when
13 interacting with mentally ill inmates?

14 A. Not that I can think of off the top of
15 my head.

16 Q. Are there any general principles that
17 you tried to follow when you were interacting
18 with a mentally ill inmate?

19 A. No.

20 Q. Were there any techniques that you
21 would try to utilize that you found to be
22 effective with mentally ill inmates?

23 A. Just more patience with the mentally
24 ill.

25 Q. Tell me about that.

1 A. I mean, you have more patience with a
2 mentally ill person than you do with a -- a
3 normal inmate.

4 Q. Why?

5 A. Just because you know that they're not
6 100 percent there.

7 Q. So how do you -- so contrast that for
8 me.

9 Let's say you're trying to get a
10 mentally ill inmate to cuff up versus a regular
11 inmate. When you say you use more patience, tell
12 me what that -- how would that -- how would that
13 play out?

14 A. I mean, you -- you ask a regular inmate
15 to cuff up and he tells you no a hundred times
16 and you know he's totally competent, versus a
17 mentally ill person who tells you no and you know
18 that they're not totally there. They don't 100
19 percent get what you're trying to get them to do.

20 Q. Okay. So what techniques then do you
21 use with the mentally ill?

22 A. You use more patience and try to
23 persuade them.

24 Q. Do you find when you're working with a
25 mentally ill inmate that it's good to have lots

1 of people giving the mentally ill inmate
2 instructions or just one?

3 A. It's better for one, just like any
4 other person.

5 Q. And when you're working with a mentally
6 ill inmate, do you find that it's better to be
7 loud and commanding or have a softer tone --

8 MS. SEARS: You mean all the time in
9 every circumstance?

10 BY MR. GERHARDSTEIN:

11 Q. -- generally?

12 A. Generally? Soft. You're going to talk
13 to a normal person soft.

14 Q. In your experience working with
15 mentally ill inmates, did you ever have to use
16 force on them?

17 A. Yes.

18 Q. And when you did -- and I take it that
19 you would try to be patient and do all the type
20 of verbal things you've described before you use
21 force, right?

22 A. Right.

23 Q. And did you try to use verbal
24 deescalation when you were dealing with an inmate
25 who was mentally ill and experiencing

1 agitation?

2 A. Yes.

3 Q. And what is --

4 MS. SEARS: Objection as to the term
5 deescalation.

6 BY MR. GERHARDSTEIN:

7 Q. What is deescalation?

8 A. When you try to bring someone who's way
9 up here (indicating) and try to bring them back
10 down.

11 Q. And how do you do that?

12 A. By talking to them --

13 Q. And what kind of --

14 A. -- persuading them, not yelling at
15 them.

16 Q. Okay. And when that doesn't work and
17 you have to the use force, is there any
18 principles you would follow before you use force,
19 any techniques or strategies?

20 A. Well, if it's just me, I'd like to have
21 someone else there.

22 Q. Okay. And then you'd come up with a
23 plan, right?

24 MS. SEARS: Objection.

25 BY MR. GERHARDSTEIN:

1 Q. Is that right?

2 A. If it -- if it allows -- if time
3 allows, yes.

4 BY MR. GERHARDSTEIN:

5 Q. Okay. Did you ever have any experience
6 in the jail when the inmate you were working with
7 was delusional?

8 A. Sure there was.

9 Q. And in that situation, if the
10 delusional inmate was having some sort of crisis,
11 would you ever involve the medical staff?

12 A. Yes.

13 Q. Tell me -- give me an example.

14 A. Well, in the psych ward --

15 Q. Yeah.

16 A. -- at the Justice Center, they actually
17 had a medical unit attached to the psych ward.

18 Q. Okay. So what's an example of a
19 situation where you would involve the medical
20 staff in working with the psych -- psych patient
21 inmate?

22 A. I -- I don't know off the top of my
23 head. I mean, it's been a couple years since
24 I've been down there.

25 Q. Did you ever have a situation where,

<http://www.yeslaw.net/help>

1 when you were working with that type of inmate,
2 you would have a plan where you would restrain
3 the inmate and the medical staff would sedate the
4 inmate?

5 A. Yes.

6 Q. Give me an example of that type of
7 situation.

8 A. We put them in what we call the
9 restraint chair.

10 Q. Okay.

11 A. And then the medical staff would come
12 in and sedate the inmate.

13 Q. And when you use that strategy, would
14 you have the medical staff standing by so that
15 they could administer the sedation promptly?

16 MS. SEARS: Objection as to the form of
17 the question that he was directing the
18 medical staff as to what to do.

19 You can answer if you understand.

20 A. The medical staff, usually, are the
21 ones that tell us that they need to be in the
22 chair so they can sedate the inmate.

23 BY MR. GERHARDSTEIN:

24 Q. Okay. But when you implemented a plan
25 like that, would the medical staff be present so

1 that they could do the sedation promptly after
2 the inmate was in the restraint chair?

3 A. Not all the time.

4 Q. So sometimes the inmate would just sit
5 in the restraint for a long time before the
6 medical staff would get to it?

7 A. Not a long time, no.

8 Once you put somebody in the restraint
9 chair, you have to get medical and have them come
10 and check the restraints.

11 Q. Okay. And if he was going to be
12 sedated, they would do it then?

13 A. Correct.

14 Q. Okay.

15 A. Or they might go back and get the
16 medications.

17 Q. Did you know the diagnosis of any of
18 the inmates that you were working with in the
19 jail?

20 A. No.

21 Q. Did you know of anybody who had
22 schizoaffective disorder?

23 A. I'm sure there were some in there.
24 They -- it's not my knowledge to know their
25 medical records, really.

1 Q. Was there any staff member who worked
2 the psych ward regularly that you worked with at
3 the jail?

4 A. Yes.

5 Q. Tell me who -- what's their names?

6 A. Well, one's sitting here right now,
7 Matthew Alexander; had Brad Buchanan. But he is
8 now a lieutenant.

9 Q. Still in corrections?

10 A. Yes. There was -- there was numerous
11 people there. There were -- I think there were
12 five of us there at that time, four or five.

13 Q. What about on the medical staff,
14 anybody that you recall that you worked with in
15 the psych unit?

16 A. I don't recall.

17 Q. Did NaphCare do the medical?

18 A. That sounds familiar.

19 Q. On August 13th, 2013, were you assigned
20 to any particular cruiser?

21 A. Yes.

22 Q. And were you alone in the cruiser, or
23 did you have a partner?

24 A. I was alone.

25 Q. Did the cruiser have a video camera?

1 A. No.

2 Q. Was there any audio -- was there any
3 capacity to capture the audio of your
4 interactions with citizens in the cruiser?

5 A. No.

6 Q. Did you have any kind of body camera?

7 A. No.

8 Q. Was there a mobile data terminal in the
9 cruiser?

10 A. Yes.

11 Q. And what kind of things would you use
12 the mobile data terminal for?

13 A. That's how you get your details
14 dispatched to you, you can talk to one another,
15 you can talk to dispatch through it by writing
16 messages instead of going over the air.

17 That's how you run people's license
18 plates, driver's license, et cetera.

19 Q. Did you have a radio?

20 A. Yes.

21 Q. Was the radio on your person?

22 A. Yes.

23 Q. When you talked to dispatch, was that a
24 recorded line?

25 A. Yes.

1 Q. And did all of your contact with
2 dispatch go through that recorded line?

3 A. Yes.

4 Q. Did you ever call dispatch on a cell
5 phone?

6 A. No.

7 Q. What about officer-to-officer when you
8 talked to another cruiser, was that on a recorded
9 line?

10 A. It's on the MDCs, which are recorded.

11 Q. The mobile data computer?

12 A. Correct.

13 Q. Now, that's the -- that would be what
14 you type in, right?

15 A. Yes.

16 Q. What if you wanted to just verbally
17 talk to another deputy? Would that be on a
18 recorded radio line?

19 A. You'd have to request a special
20 frequency that nobody's using through dispatch to
21 be able to do that.

22 Q. So how do you normally just talk to
23 another deputy? Is that --

24 A. Send them a message.

25 Q. Send them a message and then talk on a

1 cell phone then?

2 A. If we need to.

3 Q. And are those cell phones supplied by
4 the county?

5 A. No.

6 Q. So did you use your personal cell phone
7 as a Hamilton County sheriff deputy?

8 A. Do I? Yes.

9 Q. And on August 13th, 2013, did you use
10 your cell phone during that shift?

11 A. Probably.

12 Q. Do you still have the same cell phone
13 number?

14 A. I believe so.

15 Q. Do you still have the same service
16 provider?

17 A. I believe so.

18 Q. Who's the service provider?

19 A. AT&T.

20 Q. And what's the cell phone number?

21 A. 513 --

22 MS. SEARS: Can we go off the record on
23 that, please?

24 MR. GERHARDSTEIN: Sure. No problem.

25 (Off the record.)

1 THE VIDEOGRAPHER: Are we back on the
2 record?

3 MR. GERHARDSTEIN: Yes. Thank you.

4 A. I know my mom called me, because she
5 heard it on the news, asked me if everything was
6 all right.

7 BY MR. GERHARDSTEIN:

8 Q. Did you talk to anybody else?

9 A. My wife.

10 Q. Anybody else?

11 A. Not that I recall.

12 Q. Do you text?

13 A. Yes.

14 Q. And did you use the text feature with
15 respect to anyone regarding Mr. Roell?

16 A. Not that I recall.

17 Q. Are the texts preserved on your cell
18 phone?

19 A. On my personal phone?

20 Q. Yeah.

21 A. Like do I save them?

22 Q. Yeah.

23 A. No.

24 Q. You were in uniform --

25 A. Yes.

1 Q. -- on August 13, 2013?

2 A. Yes.

3 Q. And is your uni -- did your uniform
4 look anything like Mr. Dalid --

5 MR. GERHARDSTEIN: How do you say your
6 name?

7 DEPUTY DALID: Dalid.

8 MR. GERHARDSTEIN: Dalid?

9 BY MR. GERHARDSTEIN:

10 -- Mr. Dalid's uniform?

11 MS. SEARS: Deputy Dalid. Deputy
12 Dalid.

13 BY MR. GERHARDSTEIN:

14 Q. Deputy Dalid.

15 MS. SEARS: Thank you.

16 A. Yes.

17 BY MR. GERHARDSTEIN:

18 Q. So you had gray pants and a black
19 shirt?

20 A. Yes.

21 Q. You had your firearm on your strong
22 side?

23 A. Yes.

24 Q. Are you right or left-handed?

25 A. Right-handed.

1 Q. And you had your Taser on your weak
2 side?

3 A. Yes.

4 Q. I'm sorry. Which -- are you
5 right-handed did you --

6 A. Yes.

7 Q. Okay. And is the X2 any larger than
8 the X26, or is it about the same size?

9 A. It's about the same size.

10 Q. And what other equipment did you have
11 on your duty belt?

12 A. Had a CD21 -- which is our baton --
13 radio, and handcuffs.

14 Q. Did you have any chemical weapons?

15 A. I did not.

16 Q. The radio is synced to the car? Is
17 it -- is it the same radio frequency that you're
18 on when you leave the car as they are when you're
19 talking from the cruiser?

20 A. It's the only one we -- we have.

21 Q. Okay. Oh, all right. So there's
22 nothing built into the cruiser?

23 A. Right.

24 Q. Okay. When a cartridge is deployed on
25 an X26, there are aphids that are sprinkled on

1 the ground at the site of the deployment,
2 right?

3 A. Right.

4 Q. Well, at the site where the operator is
5 standing, right?

6 A. Right.

7 Q. And is that same -- do those aphids
8 also deploy when an X2 cartridge is shot?

9 A. I think so.

10 Q. And just like in the X26, the X2
11 records all the trigger pulls and -- and the
12 electronic storage in the handle, right?

13 A. Right.

14 Q. And those can be downloaded through the
15 dataport, right?

16 A. Right.

17 Q. Have you ever gotten involved in
18 downloading the information from the X2?

19 A. No. Our supervisors do it.

20 Q. And have you ever read the record that
21 is downloaded from the X2?

22 A. I -- I've seen it, yes.

23 Q. Did you carry a flashlight on
24 August 13th, 2013?

25 A. I don't think so.

1 Q. And did you use a flashlight at all on
2 the -- when you were interacting with respect to
3 Mr. Roell?

4 A. I don't think so.

5 Q. So on August 13th, 2013 in the early
6 morning hours, you encountered Mr. Gary Roell,
7 right?

8 A. Correct.

9 Q. And Mr. Roell appeared to be having a
10 mental health crisis when you encountered him,
11 right?

12 A. It was undetermined at the time.

13 Q. At any point before Mr. Roell lost
14 cardiac function, did you reach any kind of
15 conclusion that he was having a mental health
16 crisis?

17 A. I did not.

18 Q. Did you suspect that he was having a
19 mental health crisis?

20 A. Yes.

21 Q. And you suspected that promptly after
22 you initiated interaction with him, right?

23 MS. SEARS: Objection as to the term
24 interaction.

25 A. After we had him in -- after we had him

1 detained, yes.

2 BY MR. GERHARDSTEIN:

3 Q. How about when you first encountered
4 him, did you suspect it?

5 A. No.

6 Q. You used force on Mr. Roell that
7 morning, right?

8 A. Yes.

9 Q. And he lost heart function while he was
10 at the scene, right?

11 A. I guess.

12 Q. And he died, right?

13 A. I think he died in the squad, yes.

14 Q. Were you criminally prosecuted for any
15 of your acts involving Mr. Roell?

16 A. No.

17 MS. SEARS: Objection.

18 You can answer.

19 A. No.

20 BY MR. GERHARDSTEIN:

21 Q. Were you disciplined by the Hamilton
22 County Sheriff's Department for the way you
23 handled the incident involving Mr. Roell?

24 MS. SEARS: Objection.

25 You can answer.

1 A. No.

2 BY MR. GERHARDSTEIN:

3 Q. Were you provided any retraining based
4 on the way you handled the incident involving
5 Mr. Roell?

6 MS. SEARS: Objection as to the term
7 retraining.

8 But you can answer if there was
9 subsequent training that you received.

10 A. There was training we received
11 afterwards, yes.

12 BY MR. GERHARDSTEIN:

13 Q. And -- so tell me about that.

14 A. We received excited delirium training
15 and numerous other trainings.

16 Q. When you say, we received excited
17 delirium training, who are you referring to?

18 A. The department.

19 Q. And when you say, numerous other
20 trainings, what are referring?

21 A. There was several other trainings
22 through PoliceOne and OHLEG that we have -- we
23 have done.

24 Q. PoliceOne and --

25 A. Policeone.com.

1 Q. Those are online trainings?

2 A. Yes.

3 Q. Those involve handling mentally ill
4 people?

5 A. Yes.

6 Q. Do you know the name of that
7 training?

8 A. I don't know off the top of my head.

9 Q. Is there a written record of your
10 participation in that training?

11 A. Yes.

12 Q. When did you get that?

13 MS. SEARS: When did he get what, the
14 written record or the training?

15 MR. GERHARDSTEIN: The training.

16 A. It was sometime after the incident. I
17 don't recall when.

18 BY MR. GERHARDSTEIN:

19 Q. And what was the OHLEG training?

20 A. I'm not 100 percent sure. I don't -- I
21 don't recall.

22 Q. Was it online?

23 A. Yes.

24 Q. Was it graded?

25 A. Yes.

1 Q. Are you aware of any policy changes at
2 the Hamilton County Sheriff's Office based on the
3 events regarding Mr. Roell?

4 A. No.

5 Q. On August 13, 2013, did you follow the
6 Hamilton County Sheriff's Office use of force
7 policy with respect to your interaction with
8 Mr. Roell?

9 MS. SEARS: Objection.

10 You can answer if you can.

11 A. I believe I did.

12 BY MR. GERHARDSTEIN:

13 Q. On August 13th, 2013, did you follow
14 the Hamilton County Sheriff's Office electronic
15 control weapons policy with respect to your
16 interaction with Mr. Roell?

17 MS. SEARS: Objection.

18 You can answer if you can.

19 A. I believe I did.

20 BY MR. GERHARDSTEIN:

21 Q. On August 13th, 2013, did you follow
22 the Hamilton County Sheriff's Office Taser
23 training or electronic stun device training with
24 respect to your use of force on Mr. Roell?

25 A. I believe I did.

1 Q. And on August 13th, 2013, did you
2 follow the Hamilton County Sheriff's Office
3 policy regarding encountering people with mental
4 illness --

5 MS. SEARS: Objection.

6 BY MR. GERHARDSTEIN:

7 Q. -- with respect to your interaction
8 with Mr. Roell?

9 MS. SEARS: I apologize, Al.

10 Objection.

11 You can answer if you can.

12 A. I believe so.

13 BY MR. GERHARDSTEIN:

14 Q. On August 13, 2013, did you follow the
15 Hamilton County Sheriff's Office policy and
16 training with respect to excited delirium with
17 respect to your interaction with Mr. Roell?

18 MS. SEARS: Objection as to policy.

19 You can answer if you can.

20 A. I believe so.

21 BY MR. GERHARDSTEIN:

22 Q. On August 13th, 2013, did you follow
23 the Hamilton County Sheriff's Office training and
24 policies with respect to restraints and cuffing
25 with -- with respect to your interaction with

1 Mr. Roell?

2 MS. SEARS: Objection as to policy.

3 You can answer.

4 A. I believe I did.

5 BY MR. GERHARDSTEIN:

6 Q. Did you do anything wrong with respect
7 to your use of force on Mr. Roell?

8 MS. SEARS: Objection as to the
9 characterization of wrong.

10 If you understand it, you can answer
11 it.

12 A. I do not think I did anything wrong.

13 BY MR. GERHARDSTEIN:

14 Q. On August 13th, 2013, what were you
15 doing when you first heard about the need to go
16 to the location where Mr. Roell was?

17 A. I was assisting a Montgomery police
18 officer with a crash on Interstate Route 275 from
19 71 North, assisting with traffic.

20 Q. So how far were you from the location
21 where Mr. Roell was?

22 A. Two miles.

23 Q. And what did you learn that caused you
24 to leave the scene of the crash that you were
25 assisting on?

1 A. They had enough units on the scene,
2 Montgomery did.

3 Q. Okay.

4 A. They did not need us anymore.

5 Q. So what did you hear over the radio
6 about what became the -- the Roell incident?

7 A. I heard a Sycamore unit get dispatched
8 to a neighbor trouble run, a run off of Hetz
9 Drive. It was a two -- two-man detail.

10 There was -- in Sycamore we have three
11 cars. Two of them stay south and one stays
12 north.

13 And this was a northern detail. He was
14 also assisting Montgomery with the crash. So we
15 were both right there.

16 Q. Who was the northern detail?

17 A. It was Deputy Matt Alexander.

18 Q. And were you one of the southern detail
19 people?

20 A. I was not. I was working Symmes
21 Township that night.

22 Q. Is the county broken up into units or
23 beats or --

24 A. Yes.

25 Q. What do you call them?

1 A. It's by township.

2 Q. And do -- is there a code for the
3 various geographical work areas that you are
4 deployed to?

5 A. Counties are 9 Sam -- or I mean,
6 9 units, start with 9.

7 Q. Okay.

8 A. Sycamore is Sam. Symmes is a Paul
9 unit. And you've got traffic, which are Tom
10 unit, Anderson and a Nor unit --

11 Q. So even though you're assigned to
12 Symmes Township, you're still a Hamilton County
13 deputy?

14 A. Correct.

15 Q. And the Paul unit is simply something
16 to assist with radio identification?

17 A. Correct.

18 Q. All right. So you're there.

19 You hear what over dispatch?

20 A. I hear 9 Sam 32, which is the north
21 Sycamore car, and 9 Sam 33, which is the southern
22 Sycamore car, get dispatched to a neighbor
23 trouble run.

24 Instead of having Sam 33 drive seven
25 miles north to assist, I was right there, so I

1 responded with Sam 32 and just told the southern
2 Sycamore guy to say south.

3 Q. And what did you learn about this
4 neighbor trouble run over the radio?

5 A. I don't recall 100 percent exactly what
6 it was.

7 They're on a different frequency than
8 the Symmes Township units are.

9 Q. Who's on a different frequency?

10 A. Sycamore is on a different frequency
11 than Symmes Township.

12 Q. And this is -- and when you say
13 frequency, you're talking about --

14 A. Radio.

15 Q. -- the Hamilton County dispatch?

16 A. Yes, radio channels.

17 Q. So did you actually hear the dispatch
18 to the neighbor trouble run?

19 A. I believe I did through Sam 32's radio,
20 who was standing next to me on the highway.

21 Q. And you heard the term neighbor
22 trouble. But did you hear any details at all
23 about whether -- about the nature of the -- of
24 the problem?

25 A. I don't think so.

1 Q. Did you hear any relay of the facts
2 that the neighbor was acting crazy or any term
3 like that?

4 A. No.

5 Q. Is there anything that you learned
6 about this neighbor trouble run that you haven't
7 told me?

8 A. Not that I recall.

9 Q. Okay. So you call off the south
10 Sycamore unit and travel to the Barrington Court
11 address, right?

12 A. Correct.

13 Q. How long did it take you to get
14 there?

15 A. Two or three minutes.

16 Q. And Deputy Alexander was traveling
17 there at the same time?

18 A. Correct.

19 Q. Were you following each other?

20 A. I was following him, yes.

21 Q. What happened when you arrived at the
22 scene?

23 A. We arrived. We were searching for the
24 address. Deputy Alexander went one way looking
25 for the address. I went the other way trying to

1 find the address.

2 And the complainant came out, was
3 yelling at her door. So Deputy Alexander saw her
4 first before I got there. And he started taking
5 off around the back of the house.

6 Q. Did you see the complainant?

7 A. Yes, I did.

8 Q. And what did she look like?

9 A. She was a female. I don't know what
10 she was wearing. I mean, I think she was
11 Asian.

12 Q. And what did she say to you and what
13 did you say to her?

14 A. I said, where is he, what is he
15 wearing?

16 She said, he's in the back breaking
17 things.

18 Q. Did you have any other conversation
19 with her?

20 A. I did not.

21 Q. Did you make any observations of the
22 scene, either of her unit or the next door
23 unit?

24 A. I did not.

25 Q. Did you see anything out of the

1 ordinary as you drove up and had that brief
2 conversation with the complainant?

3 A. I did not.

4 Q. And she instructed that -- that the
5 individual was in the back, right?

6 A. Yes.

7 Q. When you traveled to the back, were you
8 on foot?

9 A. Yes.

10 Q. And in the back there was a privacy
11 fence, right?

12 A. Yes.

13 Q. You could see over it at your height?

14 A. No.

15 Q. What about at the gate? Could you see
16 over that?

17 A. No.

18 Q. So when you traveled and walked back to
19 the -- to the area where the privacy fence was,
20 prior to encountering that privacy fence, did you
21 ever see any debris or things scattered around
22 where you parked your cruiser or where the other
23 cars were parked?

24 A. No.

25 Q. All right. Did you get any kind of

<http://www.yclaw.net/help>

1 history at all from this woman as to what was
2 happening with the individual?

3 A. No.

4 Q. So all you learned was that he was
5 breaking things?

6 A. Yes.

7 Q. Did you get any prior runs involving
8 that individual? Did you get -- did you learn
9 anything about whether the sheriff's office had
10 responded to that household before?

11 A. I have no idea. I didn't get any,
12 no.

13 Q. Would that have been something that
14 would be helpful had it been available to you?

15 MS. SEARS: Objection as to helpful.

16 If you understand, you can answer.

17 A. Depends what -- what they would tell
18 dispatch for dispatch to have logged in their --
19 in their system.

20 BY MR. GERHARDSTEIN:

21 Q. So if you had -- are there any like
22 frequent flyers that -- addresses you respond to
23 on a regular basis?

24 A. All the time, yes.

25 Q. All right. So it's helpful to know if

<http://www.yeslaw.net/help>

1 this is a person that has lots of encounters with
2 the sheriff's department, right?

3 A. Right.

4 Q. Because there's a -- a pattern and some
5 tips that prior encounters can help you develop,
6 right?

7 A. Correct.

8 Q. So if an address has had prior
9 encounters with sheriff deputies, as a responding
10 officer, you would like to know that, right?

11 MS. SEARS: Objection as to what he
12 would like to know. I'm sure he would like
13 to know everything.

14 MR. GERHARDSTEIN: You know what,
15 objection is fine. But all this talk you
16 can try to restrain.

17 MS. SEARS: I'll try to make --

18 MR. GERHARDSTEIN: Okay.

19 MS. SEARS: I'll try to
20 restrain myself.

21 MR. GERHARDSTEIN: Thanks.

22 MS. SEARS: But I'll make the record --

23 BY MR. GERHARDSTEIN:

24 Q. Go ahead.

25 MS. SEARS: -- I need to make to defend

1 the client.

2 MR. GERHARDSTEIN: Yeah. Well, you
3 don't need to do talking objections
4 educating him about what you think of my
5 question.

6 BY MR. GERHARDSTEIN:

7 Q. You can answer.

8 MS. SEARS: I understand. I'll make
9 the record I think I need to make so that
10 the record's clear.

11 A. Could you repeat the question?

12 MR. GERHARDSTEIN: Read it back.

13 (The record was read.)

14 A. It would be helpful, but they don't
15 always tell you what you're going there for.

16 BY MR. GERHARDSTEIN:

17 Q. So what happened when you got to the
18 privacy fence?

19 A. We, being myself and Deputy Alexander,
20 opened up the back gate and asked Mr. Roell what
21 he was doing.

22 Q. So the back gate was closed?

23 A. Yes.

24 Q. And what did you have to do to open
25 it?

1 A. There was a latch; push the latch and
2 open the door.

3 Q. And it opened out?

4 A. I believe so. It opened outward.

5 Q. And was it on any kind of spring so
6 that if you didn't hold it open, it would shut
7 again? Or was it --

8 A. I don't know. I don't believe so.

9 Q. And when you opened the gate, what did
10 you observe?

11 A. I observed Mr. Roell standing there
12 with a hose in one hand, a garden basket in the
13 other, facing the inside of the neighbor's
14 house.

15 Q. How far from the neighbor's house was
16 he?

17 A. He was right at their -- their
18 window.

19 Q. And what was he wearing?

20 A. He was wearing a T-shirt.

21 Q. What else?

22 A. That's it.

23 Q. So he was nude from the waist down?

24 A. Correct.

25 Q. Was he saying anything?

1 A. I don't recall.

2 Q. So you asked him what he was doing?

3 A. Yes.

4 Q. And what happened -- what did he say in
5 response?

6 A. I don't recall what he said.

7 He turned around and started coming
8 toward myself and Deputy Alexander in an
9 aggressive manner.

10 Q. Did he still have the hose in his
11 hand?

12 A. He did.

13 Q. Did he still have the garden basket?

14 A. A hanging basket, yes.

15 Q. And this hanging basket was one of
16 those that has peat moss in it and plants with a
17 piece of wire around it --

18 A. Yeah, it was.

19 Q. -- is that correct?

20 A. Yes.

21 Q. How far from you was he?

22 A. At the time?

23 Q. Right, when you first encountered him.

24 A. Probably the length of this room.

25 Q. So 15 feet?

1 A. Roughly.

2 Q. Did he say anything at all when he
3 turned around and observed you?

4 A. I don't recall him saying anything.

5 Q. Were there any lights on?

6 A. Yes.

7 Q. So you had a -- the opportunity to see
8 him?

9 A. Yes.

10 Q. And did you -- as he was coming towards
11 you, did you say anything else to him?

12 A. I told him to drop what he had in his
13 hands and get on the ground.

14 Q. And when you made -- gave him that
15 instruction, he was still in the patio area?

16 A. Yes.

17 Q. And was that patio area a concrete
18 surface --

19 A. Yeah.

20 Q. -- or a rock surface?

21 A. Concrete.

22 Q. When you told him to drop what he had
23 in his hand and get on the ground, at that point
24 did he say anything?

25 A. Not that I recall.

1 Q. So he was silent?

2 A. I don't remember.

3 Q. Okay. So he may have spoken, you just
4 don't remember?

5 A. Right.

6 Q. As you observed him and gave him
7 commands, did you have an opportunity to look
8 around the patio at all?

9 A. No.

10 Q. Did you see that there was a broken
11 window?

12 A. No.

13 Q. Did you see that there were items
14 tipped over on the patio?

15 A. No.

16 Q. When you observed him holding a hose in
17 one hand and a basket in the other and nude from
18 the waist down, did you formulate any idea that
19 maybe he was having a mental health crisis?

20 A. No.

21 Q. So he came toward you and you gave him
22 a command.

23 What happened next?

24 A. He refused and kept walking towards us
25 in an aggressive manner.

1 Q. So when you say he refused, did he say,
2 I'm not going to do this, or are you just saying
3 he didn't drop the things?

4 A. He didn't comply.

5 Q. Okay. All right. But he didn't say, I
6 refuse, right?

7 A. Right. And I don't remember what he
8 said.

9 Q. Did you have any sense as to whether he
10 actually understood what you were saying?

11 A. I don't -- no.

12 Q. Were his eyes open?

13 A. Yes.

14 Q. At any point before you laid hands on
15 him, did he say anything?

16 A. I don't remember.

17 Q. He was in an enclosed area, right?

18 A. Yes.

19 Q. There was a -- there were three fence
20 walls and a house, right?

21 A. Yes.

22 Q. At the time you gave him the command to
23 the drop the fen -- the basket and the hose,
24 Deputy Alexander was with you?

25 A. Yes.

1 Q. Were there any other officers with
2 you?

3 A. Not at the time, no.

4 Q. To your knowledge, were there any other
5 officers on their way?

6 A. Yes.

7 Q. Who was on their way?

8 A. Deputy Willy Dalid.

9 Q. Did you observe any weapon on
10 Mr. Roell?

11 MS. SEARS: Objection to the term
12 weapon.

13 A. He could have used the hanging basket
14 as a weapon, yes.

15 BY MR. GERHARDSTEIN:

16 Q. Is that the only potential weapon you
17 observed?

18 A. That he had in his hand, yes.

19 Q. And you didn't see any weapon on his
20 person, right?

21 A. Right.

22 Q. And he was nude from the waist down, so
23 he didn't have a place to put it, right?

24 A. Right.

25 Q. At any point prior to your putting your

1 hands on him, did he start yelling?

2 A. I believe so.

3 Q. And did the words he was yelling make
4 any sense?

5 A. Not that I remember.

6 Q. Did you, as you heard those words,
7 determine that he was acting bizarrely?

8 A. I believe so.

9 Q. And did you make that determination
10 before you put hands on him?

11 A. I think so.

12 Q. What did you say to Officer --
13 Deputy Alexander and what did he say to you
14 before you put any hands on Mr. Roell?

15 A. I don't think we said anything.

16 Q. So at the time you thought -- or at the
17 time you realized that Mr. Roell was acting
18 bizarrely and you observed him nude from the
19 waist down, holding a hose and this hanging
20 basket, at that point, did you formulate any
21 suspicion that he was having a mental health
22 crisis?

23 A. I didn't really have time to formulate
24 any kind of plan or suspicion.

25 Q. So the answer to my question is no?

1 A. No.

2 Q. Did you ask him to come through the
3 gate?

4 A. No.

5 Q. Did you ask him to present his hands to
6 you?

7 A. Yeah.

8 Q. So by asking him to present his hands
9 to you, you expected him to approach you,
10 right?

11 A. No.

12 Q. Well, you were going to put him in
13 cuffs, right?

14 A. Potentially.

15 Q. Okay. Did you enter the patio after
16 telling him to put those items down and show the
17 hands and get on the ground?

18 A. No.

19 Q. You stayed at the gate?

20 A. Yes.

21 Q. Then what happened?

22 A. He kept approaching us.

23 Q. Okay. Then what happened?

24 A. And I had my Taser out, I pointed it at
25 him and said, stop, get on the ground or you're

1 going to get tased.

2 Q. Okay. So when you pointed the Taser at
3 Mr. Roell. Did that deploy one or two laser
4 dots?

5 A. Two.

6 Q. Because it's an X2?

7 A. Right.

8 Q. And those dots would be the location
9 where the top prong would go, depending on which
10 cartridge you deployed, right?

11 A. Where the top and the bottom were
12 supposed to go, yes.

13 Q. And when you deploy those dots on him,
14 did he react in any way?

15 A. No.

16 Q. When you warned him to comply or that
17 he would be tased, did he respond in any way?

18 A. No; just kept approaching us.

19 Q. When did you take the Taser out?

20 A. I believe I had it out the entire
21 time.

22 Q. Going back to when you left your
23 cruiser, do you know where you parked the
24 cruiser?

25 A. Yeah.

1 Q. Where was it?

2 A. It was on -- there's a corner house
3 over here. I parked facing -- my headlights were
4 facing their -- their front porch, the front of
5 their house.

6 Q. All right. And where did Alexander
7 park his cruiser?

8 A. He parked sideways where his driver's
9 door would be facing their front house.

10 Q. And -- I'm sorry -- did you say when
11 you took your Taser out?

12 A. I believe I had it out as I was running
13 around the side of the house.

14 Q. And the straps that held the peat moss
15 in that basket, those are plastic straps, right,
16 not wire?

17 A. I think so.

18 Q. Okay. You've ordered Mr. Roell to get
19 on the ground or be tased, right?

20 And then what happened?

21 A. Then he kept approaching us.

22 I arced it. There's an arc switch on
23 the new ones where it doesn't deploy anything, it
24 just makes a sound. And you can also use that
25 for a drive stun mode.

1 I arced it, and he flinched. And he --

2 Q. How far was he from you at the point
3 when you arced it?

4 A. Five feet.

5 Q. Okay. And then what happened?

6 A. He continued at -- he flinched, then he
7 continued towards me. So I arced it again, and
8 he flinched again.

9 And then I decided to put it away.

10 Q. And when you say he flinched, what did
11 he do?

12 A. He had the hanging basket in one hand,
13 the hose in the other hand, coming at us.

14 When I arced it, he flinched, he
15 stopped, kind of like froze for a second, and
16 then continued.

17 Q. And earlier you said that he came -- he
18 approached you in an aggressive manner. What do
19 you mean by that?

20 A. His demeanor on his face. He was
21 angry. His hands were all balled up holding what
22 he's got and approaching us very quickly.

23 Q. And what about the demeanor on his
24 face?

25 A. He just looked very agitated, very

1 angry.

2 Q. And his hands were holding those items,
3 right?

4 A. Right.

5 Q. Okay. And those items were held out in
6 front of him?

7 A. To his sides, out in front to the
8 sides, yeah.

9 Q. And he was approaching you quickly?

10 A. Yeah.

11 Q. He flinched when you arced the Taser.
12 And then what happened?

13 A. Arced it again. He flinched. I put
14 the Taser away.

15 Q. And as of that point, were you giving
16 commands to him?

17 A. The entire time, yes.

18 Q. And what were you saying the entire
19 time?

20 A. Telling him to get on the ground.

21 Q. And as of that point, was Deputy
22 Alexander giving commands?

23 A. I'm not sure.

24 Q. And describe how you gave commands.
25 Give me an example of how -- just give the

1 command.

2 A. I said, stop --

3 Q. The way you did.

4 A. -- and get on the ground. I mean --

5 Q. Is that -- did you say --

6 A. -- probably louder than that.

7 Q. Go ahead. How loud do you think you
8 said it?

9 A. When someone is approaching you, you
10 say, stop, get on the ground.

11 Q. All right. So you were using your
12 command presence, right?

13 A. Right.

14 Q. And you're using a higher volume than
15 you've just used --

16 A. Right.

17 Q. -- because you're trying to get his
18 attention, right?

19 A. Exactly.

20 Q. And he was not responding?

21 A. Right.

22 Q. And at least as he approached, you
23 began to formulate the idea that he was having a
24 mental health episode, right?

25 MS. SEARS: Objection.

<http://www.rylaw.net/help>

1 BY MR. GERHARDSTEIN:

2 Q. Is that right?

3 A. I was still unsure at the time, really.

4 Q. All right. But it was -- it was in
5 your mind at that point at least --

6 MS. SEARS: Objection.

7 BY MR. GERHARDSTEIN:

8 Q. -- right?

9 A. That something wasn't right.

10 Q. Okay. Then what happened?

11 A. I put the Taser away. He continued at
12 me. I reached out and grabbed his arm.

13 Q. Okay.

14 A. I was trying to get him to go to the
15 ground as he swung the hanging basket around and
16 tried to hit me with it; tried to get him on the
17 ground. I don't know if he went down or not.
18 But he slipped off.

19 Next thing I know, he gets up, and he's
20 right near the -- the gate again. And I pull my
21 Taser out and I tase him.

22 And then he flinched. He buckles over
23 a little bit, like it's taking somewhat effect.
24 He shuts the gate as the Taser is still going its
25 five cycles.

1 Q. Uh-huh.

2 A. Myself and Deputy Alexander are
3 fiddling to get the door open. We finally get it
4 open.

5 Q. Okay. So when you grabbed his arm, did
6 you experience -- did you sense that he was
7 wet?

8 A. He was either wet or sweaty, yes.

9 Q. All right. And was he hot?

10 A. I don't -- I don't remember.

11 Q. But -- but he was either wet or sweaty
12 and there was a lot of -- he was slippery?

13 A. Yes.

14 Q. And did that interfere with your
15 ability to hold onto him?

16 A. It did.

17 Q. And, in fact, he was able to slip out
18 of your hand?

19 A. Yes.

20 Q. What side of him were you on, and what
21 side of him was Deputy Alexander on?

22 A. I was on his left side; grabbed his
23 left arm.

24 Q. So when you say that, you're facing
25 him.

1 So let's go from your perspective. Are
2 you on his -- his left, closer to the area that
3 you walked -- walked there from the car, or on
4 his right, closer to the area toward the condo
5 units?

6 A. I'm on his right.

7 Q. Okay. His left, your -- as you look at
8 it, your right?

9 A. Yes.

10 Q. Okay. And do you know what Deputy
11 Alexander did when you grabbed Mr. Roell's arm?

12 A. I do not recall what he did.

13 Q. Did you say anything to Deputy
14 Alexander about the plan or whatever you were
15 going to do?

16 A. No.

17 Q. And at the point you grabbed his arm,
18 was he outside the gate or inside the gate?

19 A. Outside the gate.

20 Q. Did he go down on the ground at that
21 point?

22 A. Yes.

23 Q. And when he went down on the ground,
24 what happened?

25 A. He somehow got back up.

1 Q. And at that point, was Deputy Dalid
2 there?

3 A. I don't think he was there yet.

4 Q. And did Mr. Roell get back up on his
5 feet?

6 A. Yes.

7 Q. Did -- at any point prior to grabbing
8 his arm, did Mr. Roell say, I'm not armed?

9 A. No.

10 Q. At any point prior to Mr. Roell going
11 back through the gate, did Mr. Roell display any
12 weapon, other than this peat moss basket and the
13 hose?

14 A. Not that I saw.

15 Q. When he got back up on his feet, you
16 unholstered the Taser again, right?

17 A. Yes.

18 Q. And where did those prongs hit him?

19 A. I'm not sure.

20 Q. Was it on his front or on his back?

21 A. I don't recall.

22 Q. The diagram that was filled out
23 pursuant to the Taser policy shows a deployment
24 to the chest.

25 Do you disagree with that?

1 A. I saw that. I don't know where that
2 came from. I don't remember talking to
3 Lieutenant Gramke about that.

4 Q. Have you ever asked him why he says
5 there was a front shot?

6 A. I just saw those the other day, so, no,
7 I haven't.

8 Q. Do you know if Deputy Alexander talked
9 to him?

10 A. I don't know.

11 Q. Do you -- did you ever fill out any
12 kind of diagram showing where the prongs hit?

13 A. No.

14 Q. At the time of -- shortly after the
15 incident, when you were -- when your video
16 interview was done, did you draw any diagrams or
17 write any reports regarding your use of force on
18 Mr. Roell?

19 A. No.

20 Q. So the only record of your statement of
21 events is the video interview that was done; is
22 that correct?

23 A. Yes.

24 Q. When the Taser deployment, that first
25 Taser deployment, occurred, was he facing you?

1 A. I believe so.

2 Q. And what was his reaction to the --
3 being struck by the Taser?

4 A. It looked like it took somewhat of an
5 effect.

6 Q. And what does that mean?

7 A. It means it didn't take full effect.

8 Q. Okay. But what did he do?

9 A. He hunched over like it hit him, but it
10 wasn't taking effect.

11 Q. So -- and you were watching him?

12 A. Yes.

13 Q. And he was facing you?

14 A. Yes.

15 Q. How far away from you was he?

16 A. Four feet, five feet.

17 Q. So if he hunched over and was facing
18 you, that -- that's while you were -- that's
19 while he was under power, right?

20 MS. SEARS: Objection as to under
21 power.

22 BY MR. GERHARDSTEIN:

23 Q. That's while you were pulling the
24 trigger, right?

25 A. Right.

1 Q. So that makes it more likely that he
2 was shot at least on the front side, right?

3 A. Not necessarily.

4 Q. Did there come a time when he twirled
5 around in front of you?

6 A. He -- he could have turned.

7 Q. Right.

8 A. He was all over the place.

9 Q. You don't know?

10 A. I don't know.

11 Q. And did he back up through the gate or
12 turn around and walk frontways through the
13 gate?

14 A. I backed up through the gate.

15 Q. And you were still pulling the trigger,
16 right?

17 A. I pulled the trigger one time, and it
18 shot the barbs. It does a five-second cycle.

19 Q. Okay. And during that five-second
20 cycle, he backed up through the gate and closed
21 it, right?

22 A. Yes.

23 Q. Did the wires break when he closed the
24 gate?

25 A. I don't know.

1 Q. So, as of that point, when you had
2 experienced all of that with him, had you heard
3 him say anything?

4 A. No.

5 Q. Was he yelling?

6 A. I think he was yelling.

7 Q. Was he saying anything about water?

8 A. At that point, I don't recall. I
9 remember later.

10 Q. And was he -- at any point up to the
11 moment when he backed up through the gate, did
12 what he was saying make any sense?

13 A. Not that I can recall.

14 Q. So at the time, did you conclude that
15 he was saying jibberish?

16 A. You could say that.

17 Q. Well, I'm asking you.

18 A. I mean, you could say it was jibberish.
19 It was --

20 Q. That's what it sounded like?

21 A. It was -- you couldn't understand what
22 he was saying.

23 Q. Okay. So he was incoherent?

24 A. Right.

25 Q. Once he backed up through the gate and

1 had that reaction to the Taser, did you develop
2 any determination that he was having a serious
3 mental health episode?

4 A. No.

5 Q. That was very bizarre, right --

6 A. What?

7 Q. -- that he would be able to resist the
8 Taser like that?

9 A. No.

10 MS. SEARS: Oh, I'm sorry.

11 BY MR. GERHARDSTEIN:

12 Q. And it was bizarre that he was nude
13 from the waist down, right?

14 A. That's bizarre, yes.

15 Q. And it was bizarre that he was talking
16 jibberish, right?

17 A. Not necessarily.

18 Q. Well, when you give a command to
19 somebody and you threaten them with tasing and
20 they talk jibberish back to you, that means that
21 he's having some sort of mental problem, right?

22 A. No. I've dealt with drunks before.

23 Q. Well, drunks are inco -- have a mental
24 incapacity, right?

25 A. Well --

1 Q. Is that right?

2 A. I guess you'd say so, yeah.

3 Q. Okay. And they sometimes don't have
4 all their faculties about them when you're
5 interacting, right?

6 A. Right.

7 Q. Did you have any sense that he was
8 exhibiting more strength than you expected?

9 A. Yes.

10 Q. What caused you to have that sense?

11 A. When, eventually, all three of us had
12 our hands on and he was still able to flop around
13 and managed to get back up.

14 Q. And even when two of you had your hands
15 on him, he was able to slip away, right?

16 A. Correct.

17 Q. And then he was able to endure the
18 Taser strike, right?

19 A. Yes.

20 Q. So when you saw that he was incoherent
21 and nude from the waist down and exhibiting
22 extraordinary strength, combative and sweaty, did
23 you recognize these as the signs of excited
24 delirium?

25 A. No.

1 Q. But as of August 13, 2013, you were
2 familiar with excited delirium, right?

3 A. I've heard the term, yes.

4 Q. And you've been trained in excited
5 delirium, right?

6 A. Not that I recall.

7 Q. It was covered in your OPOTA class,
8 right?

9 A. Correct.

10 Q. Was it?

11 A. I guess it was.

12 MS. SEARS: Are you just agreeing with
13 Mr. Gerhardstein, or do you remember?

14 A. I don't remember.

15 BY MR. GERHARDSTEIN:

16 Q. And it was covered in in-service
17 materials at the Hamilton County Sheriff's
18 office, right?

19 A. I don't remember.

20 Q. And you talked about excited delirium
21 in the -- during the field training exercises,
22 right?

23 A. No.

24 Q. You talked about excited delirium in
25 your Taser training, right?

1 A. Yes.

2 Q. And, in fact, Taser specifically warns
3 that there should be very quick uses of force
4 followed by medical intervention in cases of
5 excited delirium, right?

6 A. I don't remember.

7 THE REPORTER: Start with 1?

8 MR. GERHARDSTEIN: Yeah.

9 And we'll do a single set of exhibits
10 for all the --

11 MS. SEARS: Oh -- no, no. That's more
12 than fine. Thank you.

13 So when you said single -- I'm sorry.

14 MR. GERHARDSTEIN: Well, we'll go --

15 MS. SEARS: You just want to keep
16 going --

17 MR. GERHARDSTEIN: Yes.

18 MS. SEARS: -- or do you want to --

19 MR. GERHARDSTEIN: Yes, through each
20 witness, you know, one in the same exhibits.

21 MS. SEARS: Yeah. Okay. That's good.

22 I meant to tell you --

23 (Deposition Exhibit 1 was marked for
24 identification.)

25 BY MR. GERHARDSTEIN:

1 Q. I'm going to show you what's been
2 marked as Exhibit 1. This is a Taser training
3 bulletin dated 10/12/09.

4 Have you ever seen this?

5 A. Not that I remember.

6 Q. On the second page, there is a
7 description of the preferred target area,
8 right?

9 A. Right.

10 Q. And you've -- you're familiar with the
11 preferred target area, right?

12 A. Right.

13 Q. And then below it is a statement
14 about -- number 2 says, When dealing with
15 exhausted individuals or persons exhibiting
16 symptoms of distress or agitated, slash, excited
17 delirium.

18 Did I read that correctly?

19 A. Yes.

20 Q. And it goes on to say, It's important
21 to minimize the duration of physical struggle.

22 Did I read that correctly?

23 A. Yeah.

24 Q. And so the last two lines say,
25 Accordingly, officers engaging subjects in a

1 physical struggle or in an exhaustive state
2 should develop a plan to capture and restrain the
3 subject as expeditiously as possible to minimize
4 the duration of the struggle and the adverse
5 physiological effects.

6 Did I read that correctly?

7 A. Yes.

8 Q. And it goes on under B to say, These
9 subjects are at significant risk of
10 arrest-related death. Immediate medical
11 attention may reduce this risk.

12 And they're referring to agitated,
13 slash, excited delirium subjects, right?

14 A. Right.

15 Q. So that warning was delivered to you
16 when you took your X26 class in 2010, right?

17 A. I don't remember. But I -- I believe
18 so.

19 Q. And when you took your X26 class in
20 2010, you also discussed the signs and symptoms
21 of excited delirium, right?

22 A. Not that I remember.

23 Q. As you sit here today, you would agree
24 that, as of the time Mr. Roell backed onto the
25 patio and closed the gate, he had exhibited to

1 you the signs and symptoms of excited delirium,
2 right?

3 A. No.

4 Q. Well, let me be clear.

5 You now have taken even more course
6 work on excited delirium, right?

7 A. Right.

8 Q. So let's use all the knowledge you
9 have, even up through today.

10 And, now, let's go back and think about
11 the fact that Mr. Roell had exhibited that he was
12 incoherent, he was nude from the waist down, he
13 had extraordinary strength, he was combative, he
14 was wet or sweaty, and had backed away into the
15 gate.

16 As of that point, when you had had that
17 experience with him, and he was talking
18 gibberish, would you agree that he had the signs
19 and symptoms of excited delirium?

20 A. I would agree that he had a -- a mental
21 illness, not specifically excited delirium, I
22 guess.

23 Q. Okay. So why do you -- what is it
24 about the excited delirium that makes you
25 hesitate to think that he had that?

1 A. Because you're just putting a term
2 on a -- just because he backed up into the gate
3 and was nude from the waist down, you're just
4 putting a term that it was excited delirium, that
5 he had to have had excited delirium.

6 Q. No.

7 A. Just putting a term -- just because he
8 did that, that that's what he must have had at
9 the time when he was coming at me.

10 Q. Okay.

11 A. He must have had excited delirium
12 because he was approaching me nude from the waist
13 down.

14 Q. No. I'm trying to help you remember
15 all the symptoms.

16 (Deposition Exhibit 2 was marked for
17 identification.)

18 BY MR. GERHARDSTEIN:

19 Q. I'm going to show you what's been
20 marked as Exhibit 2.

21 You've seen this before, right?

22 A. Yes.

23 Q. And who's Sergeant Tony Orue?

24 A. He's a -- he's a lieutenant now. But
25 he does training -- or I don't know if he does

1 training anymore.

2 Q. So let's go to Bates number --
3 page 4489. And this is your Hamilton County
4 in-service training on excited delirium, right?

5 A. Right.

6 Q. And at page 4489, it tells you what to
7 look for, right?

8 A. Right.

9 Q. And this is dated April 26th, 2012,
10 right --

11 A. Right.

12 Q. -- the training?

13 And the things to look for include
14 aggressiveness, combativeness; and Mr. Roell had
15 those, right?

16 A. Right.

17 Q. Hyperactivity; he was moving quickly
18 towards you, right?

19 A. Right.

20 MS. SEARS: Objection as to your --

21 BY MR. GERHARDSTEIN:

22 Q. Extreme paranoia; did you think he was
23 understanding you?

24 MS. SEARS: Objection as to that
25 question.

1 BY MR. GERHARDSTEIN:

2 Q. Did you think he was understanding you?

3 A. Not 100 percent.

4 Q. Unexpected strength; did he have
5 that?

6 A. Yeah.

7 Q. Incoherent shouting; did he have that?

8 A. Yeah.

9 Q. Shedding of clothes; did he have that?

10 A. Yeah.

11 Q. So he certainly had a number of signs
12 of excited delirium, right?

13 A. Right.

14 Q. And as of the time he went back through
15 the gate, did you talk with your fellow officer,
16 Deputy Alexander, about developing any kind of
17 plan to deal with him?

18 A. No.

19 Q. Why not?

20 A. That's not what we're trained to do.
21 When the device is going off, you're trained to
22 get the subject under control.

23 Q. Right. But you only had five seconds,
24 and he's -- and that -- those five seconds are
25 gone, right?

1 A. Exactly. And those five seconds that
2 you're going to sit there and develop a plan,
3 there goes your five seconds.

4 Q. Okay. So we're done with the five
5 seconds. He's behind the gate.

6 Did you then talk to your fellow
7 officer, Deputy Alexander, about what to do next?

8 A. No. Because as we opened the gate, the
9 Taser was still running through its five-second
10 cycle.

11 Q. And did you make contact with him again
12 while he was under power?

13 A. Yes.

14 Q. So the -- so you were able to get to
15 him while the five seconds were still running?

16 A. Yes.

17 Q. But from what you had observed, at
18 least with that deployment, the five -- the Taser
19 was not accomplishing neuromuscular
20 incapacitation, right?

21 A. Right.

22 Q. So the chances that you would be able
23 to secure his arms were reduced, because the
24 neuromuscular incapacitation wasn't happening,
25 right?

1 A. Not necessarily.

2 Q. So you went after him, and he was still
3 experiencing the deployment.

4 And then what happened?

5 A. He was still experiencing -- myself,
6 Deputy Alexander, and Deputy Dalid -- he was
7 there at the time -- they ran in and tried to get
8 control of his arms.

9 Q. Okay. And how did that go?

10 A. It didn't go very well.

11 Q. What happened?

12 A. He was kicking, thrashing around on the
13 ground. He was on his stomach at this point.

14 I drive stunned him in the back of the
15 leg to try complete the cycle. Because I figured
16 one barb was in him. The other one must not have
17 been in him, that's why it didn't incapacitate
18 him.

19 So I was trying to complete the cycle
20 by drive stunning the back of his leg.

21 Q. Okay. So you figured that maybe one of
22 the barbs wasn't in him. If you could drive stun
23 him in the back, that would complete the cycle
24 and maybe you would accomplish neuromuscular
25 incapacitation that way?

1 A. Yes, the back of the leg.

2 Q. Did that work?

3 A. No, it did not.

4 Q. So he was exhibiting a very strong
5 ability to overcome the Taser, right?

6 A. No.

7 Q. Well, it wasn't working, right?

8 A. Well, it means that it wasn't
9 completing the cycle, which means that maybe the
10 barbs didn't connect.

11 Q. Okay. So at that point, you did the
12 deployment to the back of the leg, and the
13 officers were on either side of him; is that
14 right?

15 A. Correct.

16 Q. And what were they doing?

17 A. Trying to control his arms.

18 Q. And then what happened?

19 A. Then I put the Taser away; trying to
20 assist by keeping his legs under control, keeping
21 him from getting up.

22 He somehow managed to slip out of all
23 three of us, get up, and was facing
24 Deputy Alexander face-to-face. Deputy Alexander
25 has his back into the tree.

1 And I pulled the Taser out again and I
2 deployed it -- deployed two more barbs to his
3 back.

4 Q. And as of that point, had Mr. Roell
5 said anything?

6 A. Not that I remember.

7 Q. Was he talking about water or any of
8 the gibberish that we described -- we discussed
9 earlier?

10 A. I think when he was on the ground, at
11 that point, he stated how he wanted to get in
12 their house, because their house was dry and his
13 house was wet.

14 Q. And did that make sense to you?

15 A. No.

16 Q. Did that confirm for you that he was
17 having a mental health problem?

18 MS. SEARS: Objection.

19 A. No.

20 BY MR. GERHARDSTEIN:

21 Q. Well, that wasn't a very logical thing
22 to say, right?

23 A. It didn't confirm that he was having a
24 mental health problem.

25 I thought -- we discussed earlier that

<http://www.yeslaw.net/help>

1 we noticed that he was having -- he wasn't all
2 there, that he was having some mental issues,
3 yes.

4 Q. All right. Was there any need to put
5 him in cuffs right then, given the experience you
6 had had to that point?

7 A. Yes.

8 Q. Why?

9 A. Because the neighbor was already afraid
10 that he was breaking things in the back. I
11 wasn't sure what he broke.

12 So if we leave him in there, who knows?
13 Then he could break into their house. And then
14 you've got a possible hostage situation with the
15 family inside that can get hurt.

16 Q. Well, you had the capacity to put an
17 officer in the house, right?

18 A. Well, we could have.

19 Q. Okay. So was that discussed?

20 A. No.

21 Q. You had the capacity to ask the
22 neighbor to leave if you were afraid of her being
23 in her house, right?

24 A. We could have, but no.

25 Q. So at that point, you were in the

1 patio, right, or on the patio?

2 A. Yes.

3 Q. And you were able to observe that this
4 patio was an enclosed area, right?

5 A. Right.

6 Q. And did you discuss with your other
7 officers the idea of letting him be in the patio
8 until you could develop a better plan?

9 A. No.

10 Q. Did -- up to the point where you had
11 tased him a second time, had you called any
12 healthcare provider to be available?

13 A. No.

14 Q. Up to the point when you had tased him
15 a second time, had you called the mobile crisis
16 team?

17 A. No.

18 Q. Do you know what the mobile crisis team
19 is?

20 A. Yes.

21 Q. And those are healthcare professionals
22 available to officers who are dealing with
23 mentally ill people who are in crisis, right?

24 A. Right.

25 Q. There was -- there were no other

1 members of the public present on the patio,
2 right?

3 A. Right.

4 Q. And the only weapons that you were able
5 to observe were the hose and the moss-covered
6 plastic-wrapped plant holder, right?

7 MS. SEARS: Objection to able to
8 observe; form of the question.

9 A. Yes.

10 MS. SEARS: At some point, can we take
11 a rest room break?

12 I don't know, Al. Whenever -- we can
13 go for a little while if you're in the
14 middle of something.

15 But at some point, can we please do
16 that?

17 MR. GERHARDSTEIN: Yeah.

18 BY MR. GERHARDSTEIN:

19 Q. Did -- did he walk backwards through
20 the gate or crawl?

21 A. He walked backwards.

22 MR. GERHARDSTEIN: Okay. Well, we can
23 take a break --

24 MS. SEARS: Thank you.

25 MR. GERHARDSTEIN: -- and change the

<http://www.yeslaw.net/help>

1 tape.

2 MS. SEARS: Appreciate it.

3 THE VIDEOGRAPHER: We are off the

4 record. The time is 11:52 a.m.

5 (Off the record.)

6 MR. GERHARDSTEIN: Back on the record.

7 We good?

8 THE VIDEOGRAPHER: One second.

9 You're good.

10 BY MR. GERHARDSTEIN:

11 Q. The entire time from the moment you got
12 the call to the time Mr. Roell lost his cardiac
13 function and then EMS came, do you have any sense
14 of how long that took?

15 A. The entire call?

16 Q. Yeah.

17 A. Probably two minutes, I'm guessing. I
18 don't know.

19 Q. So it was very fast?

20 A. It was -- it was quick, yes.

21 Q. And when you arrived at the gate, was
22 there one of you who took charge of the incident,
23 or were you and Alexander equal?

24 How did that work?

25 A. I believe we were equal. I don't -- I

<http://www.yeslaw.net/help>

1 was giving commands, so I'm sure he wasn't saying
2 anything.

3 Q. You're sure he was not saying
4 anything?

5 A. I'm sure if I'm talking, he's not going
6 to try to talk over me to have the subject do
7 something.

8 Q. Do you know if he gave the same
9 commands.

10 A. I don't know if he gave any commands.

11 Q. Okay. So there wasn't any discussion
12 about who was in charge?

13 A. No. And that's usually how we do it.

14 Q. And when you got to the back of the
15 privacy fence and you first observed him, how
16 long did you observe him before you started
17 speaking to him?

18 A. Two seconds.

19 Q. You'd agree that excited delirium is a
20 medical emergency, right?

21 A. Yes.

22 Q. Returning to Exhibit 2, at Bates number
23 page 4491 --

24 MS. SEARS: 4491?

25 MR. GERHARDSTEIN: Yes.

1 BY MR. GERHARDSTEIN:

2 Q. The county materials have a page on how
3 to respond to an excited delirium emergency.

4 Do you see that?

5 A. Yeah.

6 Q. The first bullet point says that you
7 ask dispatch for EMS and have them staged nearby.

8 Did you do that?

9 A. No.

10 Q. And then it says, If the situation
11 permits, have EMS on scene before engaging the
12 subject.

13 Did you do that?

14 A. The situation didn't permit.

15 Q. Did you do that?

16 A. No, because the situation didn't
17 permit.

18 Q. And why is that?

19 A. Just because we got the call to a
20 neighbor trouble, doesn't mean we got a call to
21 an excited delirium.

22 Q. Okay. So what I'm trying to get a
23 sense of is, if you had identified Mr. Roell as a
24 suspect with excited delirium symptoms, would you
25 have followed this -- these -- this protocol?

1 A. If he wasn't in there breaking things
2 and wasn't in somebody else's area, we would try
3 to get him under control first and then call EMS.

4 EMS isn't going to respond until we get
5 him under control anyway.

6 Q. Right. But you want EMS staged if it's
7 excited delirium, right?

8 A. Yeah. But we still have to take
9 control before EMS will even step foot in
10 there.

11 Q. Right. But you would want EMS on scene
12 so they could step in right away if it's excited
13 delirium, right?

14 A. If we knew at the time it was excited
15 delirium, in a perfect world, that would be
16 great, yes.

17 MS. SEARS: Objection as to on the
18 scene and staging.

19 Are you saying they're the same things?

20 BY MR. GERHARDSTEIN:

21 Q. If -- let's just start from the
22 beginning on that series.

23 Do you agree now that Mr. Roell was
24 suffering from excited delirium?

25 A. Now that I know he was? Do we agree

1 afterwards? Yeah.

2 Q. Okay. And do you agree that the
3 symptoms you observed on August 13, 2013 were
4 consistent with excited delirium?

5 A. What I know now? Yeah.

6 Q. And would you agree that you had been
7 trained to recognize those symptoms before
8 August 13th, 2013?

9 A. Through Taser training, yeah.

10 Q. And would you agree that if you -- as
11 of August 13th, 2013, if you as a deputy were
12 encountering a person with excited delirium
13 symptoms, it was the protocol to have EMS on
14 scene ready to assist with the subject as soon as
15 you had the subject under control --

16 MS. SEARS: Objection.

17 BY MR. GERHARDSTEIN:

18 Q. -- right?

19 MS. SEARS: Objection.

20 A. As soon as we had the subject under
21 control? Yeah. If we knew -- if we knew we were
22 going to an excited delirium call, sure.

23 BY MR. GERHARDSTEIN:

24 Q. Okay. And would you agree that on
25 August 13th, 2013 you did not call EMS until

1 after you had Mr. Roell already in cuffs and in
2 shackles, right?

3 A. Right. That's when time allowed, yes.

4 Q. Well, are you saying that you didn't
5 call them because you didn't have time?

6 A. Yeah.

7 Q. And you didn't have time, because you
8 witnessed Mr. Roell on the scene of a neighbor's
9 property?

10 A. He was on the scene of a neighbor's
11 property. As soon as we opened the gate and made
12 contact with Mr. Roell --

13 Q. Okay.

14 A. -- he came at us.

15 Q. Okay. So you think that this was such
16 a dangerous situation that you didn't even have
17 time to call EMS before restraining Mr. Roell?

18 A. I know -- I know it could have turned
19 into a dangerous situation, yes.

20 Q. Okay. And the fact that it could have
21 turned into a dangerous situation -- tell me what
22 you were worried about.

23 A. I've already told you, I was worried
24 about him getting inside and getting that family.

25 He's already breaking things. Who

1 knows if he'll breaking anything else and hurt
2 himself even more.

3 Q. And you weren't worried about hurting
4 him more than those possibilities?

5 A. What do you mean hurting him more?

6 Q. Well, if you identified him as a
7 subject with excited delirium symptoms, you'd
8 realize that usually within minutes of being
9 restrained, the victim can lose all vital signs,
10 right?

11 MS. SEARS: Objection.

12 A. It says that, yes.

13 BY MR. GERHARDSTEIN:

14 Q. And you learned that when you were
15 trained on excited delirium, right?

16 A. Yes.

17 Q. And so that's why it's so important to
18 have EMS ready right away when you restrain
19 someone, right?

20 A. If time allows, yes. But time did not
21 allow.

22 If we got called to an excited delirium
23 run, it would have been totally different.

24 But we got called to a neighbor trouble
25 run.

1 Q. Okay. But you had time --

2 A. We did not have time.

3 Q. -- to make observations of Mr. Roell
4 before you went hands-on, right?

5 A. No.

6 Q. You could have just closed the gate and
7 let him be in there while you came up with a
8 plan, right?

9 A. No. Let him be in there and destroy
10 things, let him break into someone's house,
11 terrorize the family? Who knows what he was
12 going to do.

13 We're -- we're cops. That's not what
14 we do.

15 Q. Well, if you had closed the gate, you
16 could have made the family safe and -- right?

17 A. No.

18 Q. You don't think you could have
19 protected that family, which was behind a brick
20 wall?

21 A. Which was behind a glass door --

22 Q. Okay.

23 A. -- when he already broke glass? No.

24 Q. Okay. As you sit here today, having
25 reflected on it, would you agree that you could

1 have let him be on the patio and protected the
2 family and come up with a plan before you went
3 hands-on?

4 A. No. I would not have done anything
5 different.

6 Q. Did you actually see him breaking
7 anything?

8 A. I did not see him breaking anything.

9 Q. And so while you were engaged with him,
10 he didn't break anything, right?

11 A. Not that I saw.

12 Q. And destroying property is not a valid
13 basis to put a person's life at risk, is it?

14 MS. SEARS: Objection. Objection.

15 That's combative and argumentative and
16 presupposes that these gentlemen intended to
17 kill him.

18 That's -- that's just totally
19 inappropriate.

20 I'm going to instruct him not to answer
21 that question.

22 BY MR. GERHARDSTEIN:

23 Q. Let's go back to the factors you used
24 for the level of force you used, right?

25 A. Okay.

1 Q. You have to the look at the seriousness
2 of the crime, right?

3 A. Okay.

4 Q. Do you agree with that?

5 A. Yeah.

6 Q. All right. And the seriousness of the
7 crime that you saw was destroying property,
8 right?

9 A. He was destroying property, yeah.

10 Q. And you can't kill somebody who
11 destroys property, right?

12 A. First of all, I didn't kill anybody.

13 Q. Okay. But you -- but you can't use
14 deadly force against somebody who destroys
15 property, right?

16 A. We didn't use deadly force. Okay; but,
17 right.

18 Q. Okay. And then you look at whether the
19 person is putting a member of the public at risk
20 or a --

21 A. Which he was.

22 Q. -- or a -- officers at risk, right?

23 A. Okay.

24 Q. Is that right?

25 A. Yeah. He did both.

1 Q. And so you need to measure the amount
2 of force you apply against the risk that the --
3 that the subject poses, right?

4 A. Okay. Yeah.

5 Q. And you use more force with somebody
6 who's got a deadly weapon than you do with
7 somebody who doesn't have a deadly weapon, right?

8 A. Obviously, yes.

9 Q. And you use more force with somebody
10 who's deliberately being noncompliant than with
11 somebody who's having a mental health episode,
12 right?

13 MR. KUNKEL: Objection.

14 A. Not necessarily.

15 BY MR. GERHARDSTEIN:

16 Q. Well, with somebody who's having a
17 mental health episode, first, you try to
18 deescalate, right?

19 A. Okay. But when someone's charging at
20 you, you kind of go from here to here
21 (indicating) and take a step up.

22 Just because he's mentally ill doesn't
23 mean you're not going to go hands-on with
24 somebody.

25 Q. But at the time he went back through

1 the gate, you had an opportunity to reassess and
2 determine what strategy you would follow, right?

3 MS. SEARS: Objection.

4 Now he's asked and answered this like
5 at least three times now. I think this --
6 this line of questioning's been asked and
7 answered.

8 BY MR. GERHARDSTEIN:

9 Q. You can answer.

10 A. No.

11 Q. When you had Mr. Roell in restraints
12 and you were waiting on EMS, what was your plan?
13 What were you going to do then?

14 A. Hold him there until EMS arrived.

15 Q. And then what?

16 A. Then let EMS take care -- take care of
17 him.

18 Q. Well, what did you expect EMS to do?

19 A. To come and assess him.

20 Q. And then what did you see as the
21 options?

22 A. What do you --

23 Q. Where did you think you would be taking
24 him?

25 A. Wherever EMS would assess and decided

1 to take him, whether it was the hospital, whether
2 it was the psych ward.

3 Q. So he could have been taken to
4 psychiatric emergency services at the hospital,
5 right?

6 A. He could have, yes.

7 Q. And you've worked intake at the
8 Hamilton County jail, right?

9 A. Yes.

10 Q. They wouldn't take an inmate in that
11 condition would they?

12 A. No.

13 MS. SEARS: Objection.

14 Into cardiac arrest (sic), you mean?

15 MR. GERHARDSTEIN: No. Before he had
16 cardiac arrest.

17 MS. SEARS: Oh, okay.

18 A. No.

19 BY MR. GERHARDSTEIN:

20 Q. Now, while you were -- after you had
21 tased Mr. Roell the second time, how long did it
22 take before you got the cuffs on him?

23 A. Are you talking about the second time
24 as the drive stun or the --

25 Q. The drive stun.

1 A. He -- he ended up getting up.

2 Q. Okay.

3 A. And that's when he was facing Deputy
4 Alexander face-to-face with Deputy Alexander's
5 back against the tree.

6 Q. Okay.

7 A. That's when I deployed the Taser again
8 at his back side.

9 Q. Okay. And then what happened?

10 A. Then we managed to get him on the
11 ground -- that didn't take effect, either.

12 We managed to get him on the ground and
13 managed to get the cuffs on the front. We had to
14 use two sets of cuffs on the front to control his
15 arms as best we could.

16 Q. When you tased him on the back that --
17 in that prong deployment, using the second
18 cartridge, right?

19 A. Right.

20 Q. Did your lower prong actually hit below
21 the waist, or were both of the prongs above the
22 waist?

23 A. I don't know.

24 Q. If both of the prongs were above the
25 waist, one of the reasons he may not have

1 experienced neuromuscular incapacitation is that
2 that's too short a prong spread, right?

3 A. Depends how far away you are.

4 Q. Well -- but if you don't hit below the
5 waist and above the waist, it's harder to take a
6 guy down, right?

7 A. No.

8 Q. You think that two prongs above the
9 waist is just as likely to knock a person over as
10 one above and one below?

11 A. Absolutely.

12 Q. Okay. And that's how you're trained?

13 A. Yes. I've been hit with it. I know
14 what it's like.

15 Q. When you tased him in the back and then
16 used the two sets of cuffs, did -- did you do any
17 of the cuffing, or were the other officers doing
18 the cuffing?

19 A. I don't remember.

20 Q. Was he cuffed when he was on his back
21 or on his stomach?

22 A. On his back, because we were only able
23 to cuff him in the front.

24 Q. And you had to use how many sets of
25 cuffs?

1 A. Two set of handcuffs.

2 Q. Okay. And then how long -- and then
3 what happened after you got the cuffs on his
4 hands or his wrists?

5 A. We put the cuffs on him. We were
6 trying to control his -- control his legs,
7 because he was kicking. He actually kicked me in
8 the groin.

9 We had him somewhat under control,
10 myself and Deputy Dalid. And we told Deputy
11 Alexander to run to the car and get shackles so
12 we could control his feet.

13 Q. And did he do that?

14 A. He did.

15 Q. And were you able to get the shackles
16 on his feet?

17 A. We were.

18 Q. And then were there any times after he
19 was in restraints that he was on his stomach?

20 A. He was in restraints -- no, I don't
21 believe so.

22 Q. And prior to being in restraints, was
23 he ever on his stomach?

24 A. Yeah. He was flopping everywhere,
25 stomach, side, back.

1 Q. And after he was on his -- in
2 restraints, was he sat up, or was he still lying
3 down?

4 A. He was lying down on his side.

5 Q. On what side?

6 A. His left side.

7 Q. And was he still offering any
8 resistance?

9 A. When we first put the shackles on, he
10 -- actually, when Deputy Alexander went to run to
11 get the shackles, he started snoring.

12 Me and Dalid were able to breath.
13 That's when I got on the radio and asked for a
14 squad to come, when we were finally all calmed
15 down and able to get him somewhat under control.

16 Alexander came back, put the shackles
17 on.

18 And then a short time later, 15 seconds
19 maybe, he started flailing around again, kicking,
20 fighting us.

21 Q. Did you -- what did you make of the
22 fact that he started snoring?

23 A. I didn't make anything of it.

24 I made that we were finally able to
25 take a break.

1 Q. Did you identify that as a possible
2 sign of cardiac problems?

3 A. No.

4 Q. Since the incident, has anybody ever
5 advised you that when a person who's very
6 agitated then starts snoring, that that's a
7 possible sign of cardiac problems?

8 A. No.

9 Q. When he started snoring, was he on his
10 stomach for some period of time either right
11 before or right after that?

12 A. No.

13 Q. And are you sure of that?

14 A. I'm sure when he was in cuffs, he was
15 shackled, he was on his left side.

16 Q. And if there are other officers who say
17 he was on his stomach for part of that time,
18 you'd just disagree with them?

19 A. I know what I saw.

20 Q. Okay. When you deployed the X2, did
21 aphids scatter at the points where you were
22 standing when you -- when you deployed each
23 cartridge?

24 A. I'm not sure.

25 Q. Is there any particular reason why you

1 didn't write your own narrative of what happened
2 that day?

3 A. They didn't advise me to.

4 (Deposition Exhibit 3 was marked for
5 identification.)

6 BY MR. GERHARDSTEIN:

7 Q. Okay. I'm going to show you what's
8 been marked as Exhibit 3.

9 Do you recognize this?

10 A. No. I've seen it. But these are for
11 supervisors to fill out.

12 Q. Okay. So this is a Taser -- an
13 electronic stun device incident report about the
14 incident with Mr. Roell, right?

15 A. Yes.

16 Q. And it's your testimony that you didn't
17 fill this out, right?

18 A. Right.

19 Q. Did you review this at all before this
20 lawsuit was filed?

21 A. No.

22 Q. This is signed by Lieutenant -- is it
23 Gramke?

24 A. Yes.

25 Q. And who's he, or she?

1 A. He is -- he was a night shift district
2 lieutenant. Now he works out of Green Township
3 as a lieutenant.

4 Q. And did you ever talk to
5 Lieutenant Gramke?

6 A. I don't remember talking to
7 Lieutenant Gramke.

8 Q. Was Lieutenant Gramke at the scene?

9 A. I do not remember.

10 Q. Do you know which officers came to the
11 scene before Mr. Roell experienced the cardiac --
12 the -- the stopping of his cardiac function?

13 A. Yes.

14 Q. Who?

15 A. There's Corporal Gilliland;
16 Matt Sewall -- he's a corporal now --
17 Corporal Sewall; a Montgomery officer, Jason
18 Alderman.

19 And Deputy Steers arrived when
20 Mr. Roell still had a pulse.

21 Q. Okay. So Gramke wasn't there?

22 A. No.

23 Q. Directing your attention to the
24 diagram, this shows prongs from the cartridge
25 number 1 a little bit above the rib cage and then

1 around the navel.

2 Do you see that?

3 A. I see that, yes.

4 Q. And do you agree that that's where
5 those prongs hit?

6 A. No. I don't know where they hit.

7 Q. Do you have any reason to disagree with
8 this?

9 A. I have -- I have no idea.

10 Q. Okay. And then on the -- for
11 cartridge 2, it has the prong striking on the
12 upper back, shortly -- a little bit to the right
13 of the midline and then a little bit -- and then
14 further over to left.

15 Do you see that?

16 A. Yes.

17 Q. And do you agree that that's where the
18 prongs from cartridge number 2 hit?

19 A. I don't remember where they hit on his
20 back.

21 Q. Do you agree that a Taser shot, such as
22 that described as number 2, would not be -- would
23 not normally be effective to accomplish
24 neuromuscular incapacitation?

25 A. I agree. But I don't agree with the

1 diagram. Because I'd have to turn the Taser
2 sideways to shoot -- and I don't shoot Tasers or
3 guns that way.

4 Q. Right. So you would have to camp the
5 Taser in order for those to come in at that
6 angle, right?

7 A. Yeah, if they're going to be
8 side-by-side.

9 Q. Yeah. Other -- because, normally, the
10 lower prong is discharged at an angle so that it
11 will be below the upper prong, right?

12 A. Right.

13 Q. So have you had any kind of opportunity
14 to review whether this is an accurate depiction
15 of where the prongs hit?

16 A. Not really. I mean --

17 Q. Were you stable at the time you shot
18 the second cartridge?

19 A. I don't believe I was moving, no.

20 Q. Do you have, as we sit here today, a
21 present recollection of exactly how you were
22 positioned when you shot the second cartridge?

23 A. I believe I was standing up, yes.

24 Q. And how were you holding the Taser?

25 A. Probably out in front of me, like I

1 hold it every time I shoot it.

2 Q. Do you remember that, or is that just
3 your norm?

4 A. That's my norm. That's how I do it all
5 the time.

6 Q. All right. But you don't have a
7 present recollection of doing it that night,
8 right?

9 A. Right. If that's how I do it, I'm sure
10 that's how I did it that night.

11 Q. Have you reviewed the download record?

12 A. I've looked over it, yes.

13 Q. So there is a sequence number on the
14 left-hand side that's unique to each trigger
15 pull, right?

16 A. I see that.

17 Q. Okay. So at 764, which is at 2:38:05,
18 according to the Taser timing -- and just for
19 your reference, at the end of this it says that
20 the Taser is, what, about -- 28 from 42, what is
21 that, 14 -- 14 minutes short of whatever they
22 thought was accurate.

23 Do you see that time sync at the end?

24 It says -- there's a line 780, time
25 sync, from August 20, 2013, 13:28:01 to August --

1 2/13, August, 2013, 13:42.

2 Do you see that?

3 A. Yeah.

4 Q. I think that means that this Taser is
5 actually about 14 sec -- 14 minutes behind the
6 standard. Has that been discussed with you at
7 all?

8 A. No.

9 Q. All right. Don't worry about it.

10 So you would trust that the time in
11 between these trigger pulls is accurate, right?

12 A. I -- I guess. I don't -- that's -- I
13 have no idea.

14 Q. All right. And the duration of the
15 trigger pull, would you trust that that's
16 accurately recorded?

17 A. No reason to believe it's not.

18 Q. Okay. So at line 764, it shows the arc
19 where both cartridges are arcing.

20 Do you see that?

21 A. Yes.

22 Q. And it's still listing that you have
23 25-foot standard cartridges in, so you haven't
24 deployed it yet, right?

25 A. I guess, yeah.

1 Q. And then at 765 you arced it again. Is
2 that your recollection, that you arced it twice
3 before you deployed it?

4 A. I arced it twice before I deployed it,
5 yes.

6 Q. Okay. And then you put it away. It
7 says, Safe at 766, right?

8 A. Yeah.

9 Q. And that's when you -- that's -- I
10 think that's when you tried to go hands-on,
11 right?

12 A. I put it away and went hands-on, yes.

13 Q. Okay. And then you pulled it out again
14 at 767, and it then was armed, right?

15 MS. SEARS: Are you asking him if this
16 report is what -- is what actually happened
17 or --

18 BY MR. GERHARDSTEIN:

19 Q. I'm asking if this helps you recall how
20 he -- how it went down.

21 And I think you're consistent. But I
22 just want to check it with the paper.

23 A. Yeah.

24 Q. Is that correct?

25 A. Yeah.

1 Q. And then you arced twice again before
2 you actually deployed it; is that right?

3 A. I remember arcing it twice before I
4 deployed it, yeah.

5 Q. All right. But at 770, 2:38:53, you
6 deployed the first cartridge. And that's a
7 five-second deployment, right?

8 A. Right.

9 Q. And that's consistent with your
10 recollection, right?

11 A. Yeah.

12 Q. And then at 772, this shows a
13 deployment of three seconds on the first
14 cartridge again.

15 Is that -- is that -- can you do that?
16 Can you re-energize a person who has the prongs
17 in him?

18 A. Yeah.

19 Q. And can you do it for less than five
20 seconds?

21 A. Yes.

22 Q. How does that work?

23 A. You have arc switch on the side. I can
24 fire the -- I can fire the darts and turn it off
25 right away, and you can only get one second.

1 Q. Okay.

2 A. So --

3 Q. And you could fire the darts and deploy
4 it for longer than five seconds?

5 A. No. It auto -- it goes to five seconds
6 and shuts off.

7 Q. All right. But then you can
8 re-energize those darts if they are still in the
9 subject, right?

10 A. Right.

11 Q. Is that what happened here?

12 A. That's my drive stun.

13 Q. Oh, okay. Okay.

14 And then you've got a one-second
15 deployment at 773. Is that another drive stun?

16 A. It's the same continuous drive stun.

17 I still had four seconds on the
18 timer.

19 Q. And then at 774, you've got the other
20 cartridge, which is the back shot, correct?

21 A. Yes.

22 Q. And after that, it shows that you were
23 deploying both cartridges for a couple seconds.
24 Does that make sense?

25 A. Not unless -- which one is this?

1 Q. So look at 775. It's got both
2 cartridges deploy and then you have a two-second
3 duration. So what that -- what that seems to be
4 telling me is that you energized the subject for
5 two seconds through both cartridges.

6 A. I don't recall doing that at all. As
7 soon as I pulled the trigger on that -- the other
8 one, it started sparking funny from the end. So
9 I know he wasn't really -- he wasn't getting
10 any -- it wasn't taking any effect.

11 So I turned it off and put it away.

12 Q. Okay. So that was -- when you talk
13 about sparking funny from the end, do you mean
14 from the back shot?

15 A. From the end -- end of the Taser.

16 Q. Well, I understand. But which
17 deployment are we talking about?

18 A. The last one, the back shot trigger
19 pull.

20 Q. Okay. So was it your feeling that that
21 trigger pull never really worked correctly?

22 A. Yes. It didn't take effect.

23 Q. And according to the dataport, there
24 was another two seconds from both cartridges
25 after that. And you're just saying you don't

1 recall?

2 A. No, because I put it away.

3 Q. Do you have some reason to disagree
4 with this?

5 A. Yes. Because I pulled the trigger and
6 it sparked funny. So I turned it off and put it
7 away and went hands-on; never pulled it out
8 again; no need to.

9 It wasn't taking effect, so no need to.

10 Q. Did you have the unit examined
11 afterwards?

12 A. They took it from me and they examined
13 it.

14 Q. Did they find anything wrong with it?

15 A. I have no idea.

16 Q. Did you ask about it?

17 A. No, I didn't ask.

18 Q. So according to this printout, there
19 were seven different deployments either by
20 pulling the trigger or drive stun or
21 re-energizing after deployment, right?

22 A. According to the sheet, I guess.

23 I can't really tell you exactly what
24 goes on the sheet. I can't read it for you.

25 Q. And if I understand your testimony

1 correctly, the first deployment of the actual
2 first cartridge was outside the patio. But all
3 the others were inside the patio?

4 A. Yes.

5 Q. Were the other officers holding him
6 during these deployments?

7 A. They were trying to hold his arms when
8 I drive stunned his leg. That's the only time
9 they had hands on him.

10 Q. And what's your recollection of how
11 many drive stuns you did?

12 A. One.

13 Q. We looked at this diagram earlier and
14 looked at this depiction of the first cartridge
15 and where it landed, right?

16 A. Right.

17 Q. Would you agree that if the cartridge
18 was deployed in the manner depicted here, that
19 that actually -- that that top prong is higher
20 than it should be to be a proper front shot,
21 right?

22 MS. SEARS: Objection.

23 A. If -- if that's a little higher, yes.

24 It's not the preferred area. Sometimes
25 you don't -- can't everything in that preferred

1 area.

2 BY MR. GERHARDSTEIN:

3 Q. And you had been trained to avoid the
4 upper chest, right?

5 MS. SEARS: Objection.

6 Asked and answered now.

7 BY MR. GERHARDSTEIN:

8 Q. Is that right?

9 A. We've been given the preferred areas to
10 hit, yes.

11 Q. Did you know Mr. Roell's name when you
12 were engaged in trying to restrain him?

13 A. No.

14 Q. Did you know anything about him at
15 all?

16 A. No.

17 Q. Did you give him your name?

18 A. No.

19 Q. At any point when you were engaged with
20 Mr. Roell, did you give him the Miranda rights?

21 A. No.

22 Q. Did he ever say anything to you that
23 made any sense?

24 A. All I heard was, like I told you
25 earlier, their house is dry, his house is wet.

1 He wanted to get in their house.

2 Q. Do you know what positional
3 asphyxiation is?

4 A. Yeah.

5 Q. What is that?

6 A. When they're laying in a certain
7 position and can't get air.

8 Q. And what position do you want to
9 avoid?

10 A. You obviously want to avoid laying on
11 their -- on their stomach and pushing down on
12 their backs.

13 Q. And were you aware of that positional
14 asphyxiation on August 13th, 2013?

15 A. He was on the side. So it wouldn't
16 have made any difference.

17 Q. But did you -- were you aware of the
18 issue around positional asphyxiation on that
19 day?

20 A. I was just trying to get him in
21 custody, keep him under control, keep him from
22 fighting, yes.

23 So it wasn't a top priority to figure
24 out what position would be -- would be best for
25 him.

1 Q. You knew about positional asphyxiation
2 as an issue to be concerned about on
3 August 13th, 2013, right?

4 A. To be concerned about?

5 Q. Yeah. You knew of this issue and you
6 knew to be on the lookout for it, right?

7 A. I have heard about it, yes.

8 Q. And you've been trained on it, right?

9 A. I don't remember.

10 Q. Have you been trained on it since?

11 A. I -- I don't -- I don't remember.

12 Q. Is there any policy in the Hamilton
13 County Sheriff's Office that addresses it?

14 MS. SEARS: Objection.

15 You can answer.

16 A. I don't know.

17 BY MR. GERHARDSTEIN:

18 Q. Are you familiar with the restraint
19 policy and the cuffing policy in the Hamilton
20 County Sheriff's Office?

21 MS. SEARS: Objection.

22 A. As to -- as to what?

23 BY MR. GERHARDSTEIN:

24 Q. As to what you should do after you get
25 a person in cuffs.

1 A. What do you -- what do you mean, get
2 them in cuffs?

3 Q. Does your policy require that you sit
4 them up?

5 A. No.

6 (Deposition Exhibit 4 was marked for
7 identification.)

8 MR. GERHARDSTEIN: 4?

9 THE REPORTER: Yes.

10 BY MR. GERHARDSTEIN:

11 Q. I'm showing you Exhibit 4. This is a
12 page out of procedure memo 53, Prisoner
13 Transportation. And I'm looking at D(1).
14 Handcuffing. Do you recognize this?

15 MS. SEARS: Objection as -- I'm -- I'll
16 just do an ongoing objection as to this
17 policy, Al, so I don't continue to interrupt
18 you.

19 MR. GERHARDSTEIN: That's fine.

20 A. Yeah.

21 BY MR. GERHARDSTEIN:

22 Q. And it says D(1)(b), Do not leave
23 handcuffed individuals prone on the ground. Once
24 individuals are under control, immediately move
25 them to a seated position as soon as possible.

1 Did I read that correctly?

2 A. Yes.

3 Q. And were you familiar with that policy
4 on August 13th, 2013?

5 A. Yeah. He wasn't prone, though.

6 Q. And he wasn't moved to a seated
7 position either, right?

8 A. He was on his side.

9 Q. He wasn't moved to a seated position,
10 right?

11 A. Right. He was on his side.

12 Q. Would you agree that on
13 August 13th, 2013, Mr. Roell was a mentally
14 handicapped person?

15 MS. SEARS: Objection.

16 A. Was I aware he was a mentally
17 handicapped person?

18 BY MR. GERHARDSTEIN:

19 Q. Yeah.

20 A. I was not aware.

21 Q. And, given what you know today, would
22 you agree that he was a mentally handicapped
23 person?

24 MS. SEARS: Objection as to mentally
25 handicapped.

1 A. No.

2 (Deposition Exhibit 5 was marked for
3 identification.)

4 BY MR. GERHARDSTEIN:

5 Q. I'm going to show you Exhibit 5.

6 Do you recognize that?

7 MS. SEARS: Objection to this policy
8 and procedure.

9 BY MR. GERHARDSTEIN:

10 Q. This is procedure memo 45, right?

11 A. Yes.

12 Q. And it's the Hamilton County Sheriff's
13 Office procedure for the handling of handicapped
14 persons, right?

15 A. Yeah.

16 Q. And it includes in its definition of a
17 handicapped person, One who has a mental
18 impairment that substantially limits one or more
19 of the -- activities, right?

20 A. Yes.

21 Q. And under C(1), it says, This -- in the
22 second sentence it says, This procedure applies
23 to situations where a deputy encounters a person
24 who is suspected of having a mental handicap,
25 which could be mental illness or retardation.

1 Did I read that correctly?

2 A. Yes.

3 Q. And at least as of the time Mr. Roell
4 went back into the patio and closed the gate, you
5 did suspect that he had a mental handicap,
6 right?

7 MS. SEARS: Objection.

8 He's asked and answered what he -- what
9 he --

10 MR. GERHARDSTEIN: In light --

11 MS. SEARS: -- what he thought at least
12 three or four times now.

13 MR. GERHARDSTEIN: In the light of this
14 policy, I'm going to ask this question.

15 BY MR. GERHARDSTEIN:

16 Q. You can answer.

17 A. No. I wasn't aware of that.

18 Q. So you didn't suspect that he had a
19 mental handicap?

20 A. I just knew something wasn't right
21 about him.

22 Q. But as this -- pursuant to this policy,
23 you didn't suspect that he had a mental
24 handicap?

25 A. No.

1 MS. SEARS: Objection.

2 Now he's answered it -- this particular
3 question twice -- well, now three times.

4 BY MR. GERHARDSTEIN:

5 Q. And do you agree, as we sit here today,
6 given all you know about Mr. Roell, that you
7 should have suspected that he had a mental
8 handicap?

9 MS. SEARS: Objection.

10 A. No.

11 BY MR. GERHARDSTEIN:

12 Q. In any of your other encounters with
13 mentally ill citizens, did you ever call the
14 mental illness hotline or seek activation of the
15 mobile crisis team?

16 MS. SEARS: Objection.

17 A. I have not.

18 BY MR. GERHARDSTEIN:

19 Q. After you had restrained Mr. Roell and
20 he started snoring, what happened?

21 A. He started snoring, we were able to
22 take a -- take a breather. We were able to relax
23 our grip on him and call for a squad.

24 Q. And then what happened?

25 A. And as we were waiting for a squad to

1 arrive, he came to, came out of his snore, and
2 started fighting and resisting us again.

3 Q. And how long was he snoring?

4 A. Probably ten seconds.

5 Q. And when he started resisting, what did
6 he do?

7 A. He started kicking, moving his hands
8 around again, flailing his arms.

9 Q. And what did you and -- what did you do
10 when he started kicking and moving his hands
11 around again?

12 A. Same thing I did before: control his
13 legs.

14 Q. How did you control his legs?

15 A. I had my -- my knee on one of his legs
16 and was trying to control the other leg with my
17 arms.

18 Q. So was he literally laying on his side?

19 A. Literally on his left side.

20 Q. And where were his arms?

21 A. Out in front of him.

22 Q. And where were his legs?

23 A. On the ground.

24 Q. Were they splayed or were they
25 together?

1 A. They were not together. I was kneeling
2 on one. I was trying to get control of the other
3 one.

4 Q. And what were the other officers doing?

5 A. I believe Dalid had his upper half,
6 controlling him from the top.

7 Q. How was he doing that?

8 A. I have no idea. I was too worried
9 about getting kicked and trying to control his
10 legs.

11 Q. And what about Deputy Alexander?

12 A. I don't know what he was doing at the
13 time.

14 Q. How long did you all restrain him
15 before EMS got there?

16 A. By the time we called for the squad, he
17 was in cuffs probably -- we called for squad
18 while he was in cuffs.

19 But by the time the squad got there,
20 maybe two -- two minutes, three minutes by the
21 time the squad finally arrived.

22 Q. And before the squad arrived, I think
23 you've told us that some other officers showed
24 up, right?

25 A. Yes.

1 Q. So when did you first notice that there
2 was a problem with Mr. Roell, a medical
3 problem?

4 A. Probably when Deputy Dalid said
5 something, that he wasn't -- wasn't breathing.

6 I think he's the one who -- who noticed
7 it. I don't know if -- he felt for a pulse, I
8 think.

9 Q. And, at that point, were you holding
10 his legs?

11 A. I was still on his legs. But he --
12 when he was fighting with us, then he stopped
13 fighting with us, and we were able to relax our
14 grip again.

15 Q. And what happened when the deputy said
16 that he didn't think he was breathing?

17 A. We put him on his back and felt for a
18 pulse.

19 Q. Who did that?

20 A. I believe Steers. That's when
21 Corporal Steers showed up.

22 Q. And did you say anything to your other
23 officers and did they say anything to you at that
24 point?

25 A. I don't remember.

1 Q. So what happened?

2 A. Corporal Steers started CPR, felt for a
3 pulse, saw that it was weak, started more CPR,
4 and notified Deputy Dalid --

5 Q. Did you know how to do CPR?

6 A. I did, yes.

7 Q. And did Corporal Steers ask for any
8 help?

9 A. No.

10 Q. What did you do while they were doing
11 CPR?

12 A. Stood there waiting for the squad to
13 arrive.

14 Q. How long did Corporal Steers do CPR?

15 A. I don't -- I don't know, maybe a
16 minute, two minutes, just until the squad got
17 there -- until the time the squad arrived.

18 Q. And what did -- what was Alexander
19 doing?

20 A. I don't know.

21 Q. What happened once the squad got there?

22 A. They put him on the cot and transported
23 him to the ambulance and took him over to the
24 hospital.

25 Q. Now, you'd agree that as a deputy it's

1 foreseeable that you will have contact with
2 mentally ill citizens, right?

3 A. Yes.

4 Q. After Mr. Roell passed away, you were
5 interviewed with respect to the events of that
6 night. And you've reviewed your video interview
7 and looked at the transcript, right?

8 A. Right.

9 Q. Did you ever go back to the scene with
10 anyone and do a walk-through?

11 A. No.

12 Q. So has there been any other
13 interrogation of you, other than that one video
14 interview?

15 A. No.

16 Q. You'd agree that as of
17 August 13th, 2013, it's appropriate to take the
18 symptoms of mental illness into account when
19 developing a strategy for taking a mentally ill
20 person into custody, right?

21 MS. SEARS: Objection.

22 You can answer.

23 A. If time allows, yes.

24 BY MR. GERHARDSTEIN:

25 Q. You'd agree that any decision on the

<http://www.yeslaw.net/help>

1 amount of force that's going to be used is made
2 on an objective basis, what a reasonable officer
3 would do in that situation, right?

4 MS. SEARS. Objection.

5 That calls for a legal standard and
6 legal conclusion.

7 If you understand it, you can answer
8 it.

9 A. Could you repeat it?

10 MR. GERHARDSTEIN: You can read it
11 back.

12 (The record was read.)

13 A. Yeah.

14 BY MR. GERHARDSTEIN:

15 Q. You learned that in your training,
16 right?

17 A. Right.

18 (Deposition Exhibit 6 was marked for
19 identification.)

20 BY MR. GERHARDSTEIN:

21 Q. I'm going to show you what's been
22 marked as Exhibit 6. These are portions of the
23 human relations unit in the 2006 OPOTA materials.

24 And I'd like you to just look it over
25 and let me know if this is consistent with the

1 type of materials you studied in the academy when
2 you went to -- to Butler Tech.

3 A. Looks like something we would have gone
4 over.

5 Q. So on the first page, one of the goals
6 of this unit, about halfway down it says, The
7 student will know the behaviors to be avoided in
8 deescalation techniques.

9 And it also says right above it, The
10 student will know the types of deescalation
11 techniques.

12 Did I read that correctly?

13 A. Yes.

14 Q. And you've learned about deescalation
15 techniques, right?

16 A. Right.

17 Q. On the page that's marked 3, dash, 2,
18 dash 8, there's a section that's titled, 2,
19 Presentation.

20 Do you see that?

21 A. Yes.

22 Q. Officers are imbued with a take-charge
23 attitude and use command presence to help deal
24 with criminals, victims, and to handle problems
25 with which they have been called upon to deal,

1 1, this attitude can actually inflame the
2 situation and cause the mentally ill individual
3 to escalate his or her behavior.

4 Did I read that correctly?

5 A. Yes.

6 Q. And you'd agree with that, right?

7 A. Sure. Yeah.

8 Q. And number 2, it says, You can have
9 more control and authority over the person in a
10 mental health crisis by using verbal and
11 nonverbal communication that signifies a desire
12 to help the person while still maintaining
13 officer safety.

14 Did I read that correctly?

15 A. Yes.

16 Q. Do you think in your encounter with
17 Mr. Roell that you used verbal and nonverbal
18 communication signifying a desire to help him?

19 A. I tried to make contact with him, and
20 he came charging at me. So --

21 Q. Do you think in your communi -- in your
22 encounter with Mr. Roell, you used verbal and
23 nonverbal communication that signifies a desire
24 to help him?

25 MS. SEARS: Objection.

1 I think he just answered the
2 question.

3 MR. GERHARDSTEIN: No, he -- he didn't.

4 BY MR. GERHARDSTEIN:

5 Q. You can answer.

6 A. No.

7 (Deposition Exhibit 7 was marked for
8 identification.)

9 BY MR. GERHARDSTEIN:

10 Q. I'm going to show you what's been
11 marked as Exhibit 7. This is an in-service on
12 dealing with mentally ill citizens.

13 And do you recognize this?

14 A. It looks somewhat familiar.

15 Q. Have you taken this in-service as part
16 of your work at the sheriff's department?

17 A. I don't remember. I don't know.

18 Q. Did you take it before
19 August 13th, 2013?

20 A. I don't -- I don't know.

21 Q. The first slide that we're looking at
22 here says that if the person is mentally
23 distressed, perpetrated the crime, then your job
24 is to deescalate the person first and investigate
25 the crime second, provided nobody's been injured.

1 Do I read that correctly?

2 A. Yes.

3 Q. Would you agree that you did not
4 deescalate the person first with respect to Mr.
5 Roell?

6 MS. SEARS: Objection.

7 A. No.

8 BY MR. GERHARDSTEIN:

9 Q. Well --

10 A. You've got to deescalate the
11 situation --

12 Q. And you did --

13 A. -- and then investigate later.

14 But we were unable to do that.

15 Q. Tell me what you did that you think
16 deescalated the encounter with Mr. Roell?

17 A. We were unable to deescalate.

18 Q. What did you try to do that would
19 deescalate?

20 A. We tried to make contact with
21 Mr. Roell. And he came charging at us.

22 So there was no deescalation at the
23 time, until he was on the ground. Because he
24 kept on flailing around. And we were telling him
25 to be calm; calm down.

1 Q. And after he went back inside the gate
2 and the gate was closed, did you do anything to
3 deescalate the situation with Mr. Roell?

4 A. We went in there to try to take care of
5 the situation and cuff his hands.

6 Q. Af -- no. My question was, after the
7 gate was closed, did you take any measures to
8 deescalate the situation with Mr. Roell?

9 A. No.

10 MS. SEARS: So what about lunch?

11 MR. GERHARDSTEIN: We'll be done in a
12 minute.

13 MS. SEARS: Well, I'm going to have a
14 few things to follow up on. So I guess we
15 can do that after lunch.

16 BY MR. GERHARDSTEIN:

17 Q. Would you agree that, all else being
18 equal, an officer is never allowed to needlessly
19 endanger a suspect?

20 A. No. Needlessly, right, yeah, we
21 done.

22 Q. Would you agree that officers are
23 required to reevaluate the decision to use force
24 when circumstances change?

25 A. If time prevails, yeah.

1 MR. GERHARDSTEIN: All right. So I've
2 got about 10, 15 minutes --

3 MS. SEARS: Okay.

4 MR. GERHARDSTEIN: -- and then, so -- I
5 mean, if you really need to take a lunch, we
6 can do that.

7 MS. SEARS: Well, it's up to you. I
8 have some follow-up. So --

9 MR. GERHARDSTEIN: Okay. I'd rather
10 not take lunch at all.

11 MS. SEARS: Yeah. Well --

12 MR. GERHARDSTEIN: -- because we got
13 started so late today.

14 MS. SEARS: Yeah. But I have to eat
15 lunch.

16 MR. GERHARDSTEIN: Okay. So how much
17 time do you need?

18 MS. SEARS: I need at least 40 minutes.

19 MR. GERHARDSTEIN: Okay.

20 MS. SEARS: I bring my lunch.

21 MR. GERHARDSTEIN: I'm saying if we
22 could start these --

23 MS. SEARS: No. I bring my lunch.

24 MR. GERHARDSTEIN: -- before 10:00,
25 that would be great.

1 MS. SEARS: Okay. But I am a lunch
2 insister.

3 MR. GERHARDSTEIN: All right. Let's
4 take --

5 MS. SEARS: We don't have to take lunch
6 now. We can go forward.

7 MR. GERHARDSTEIN: Let's take 40
8 minutes for lunch, and then let's come
9 back.

10 THE VIDEOGRAPHER: We're off the
11 record. The time is 1:05 p.m.

12 (Off the record.)

13 THE VIDEOGRAPHER: We are back on the
14 record. The time is 1:50 p.m.

15 BY MR. GERHARDSTEIN:

16 Q. Okay. Take a look at Exhibit 2. That
17 was the excited delirium roll call training from
18 2012, right?

19 A. Yes.

20 Q. And at page 4491, it talks about how to
21 respond to an excited delirium emergency. And we
22 covered a couple of those points.

23 But the third bullet points says, A
24 minimum of six officers is highly recommended
25 before engaging a subject.

1 Did I read that correctly?

2 A. Yes.

3 Q. And you engaged Mr. Roell when you had
4 three officers, right --

5 A. Yeah.

6 Q. -- or, actually, two officers, right?

7 A. Right.

8 Q. Okay. And then it says, The team
9 leader must quickly develop a plan to restrain
10 the subject.

11 Did you communicate any plan to Deputy
12 Alexander?

13 A. Not that I'm aware of.

14 Q. Okay. The -- you talked about several
15 of the officers who came as you had Mr. Roell in
16 restraints. And one of them was Corporal Steers,
17 right?

18 A. Right.

19 Q. And Corporal Steers said, as he came on
20 the scene, that he suspected excited delirium,
21 right?

22 A. I guess. I haven't talked to him about
23 it.

24 Q. Okay. Have you heard that he said
25 that?

1 A. No.

2 Q. Has anybody told you he said that?

3 A. No.

4 Q. When you were there, did he make that
5 statement to you?

6 A. Not that I'm aware of.

7 Q. How long was Corporal Steers on the
8 scene before he started CPR?

9 A. Ten seconds.

10 (Deposition Exhibit 8 was marked for
11 identification.)

12 MS. SEARS: Is this 8?

13 THE REPORTER: Yes.

14 BY MR. GERHARDSTEIN:

15 Q. I'm going to show you what's been
16 marked as Exhibit 8. And this is from the
17 discovery materials and is a diagram that was
18 drawn during the county investigation of
19 Mr. Roell's death.

20 Do you recognize this?

21 A. Not really.

22 Q. Is it a diagram of the patio with the
23 privacy fence around it?

24 A. I guess that's what they're trying to
25 draw her.

1 Q. Well, do you recognize it?

2 A. No.

3 MS. SEARS: Can you tell us what it is?

4 Because no one here's ever seen it before.

5 MS. WOEBER: Was it part of a larger
6 document?

7 MR. GERHARDSTEIN: It came out of all
8 the county materials.

9 MR. KUNKEL: It was part of the
10 investigation.

11 MS. WOEBER: Oh.

12 MR. KUNKEL: It's in the --

13 MS. WOEBER: It's part of the report?

14 MR. KUNKEL: Yes.

15 MS. WOEBER: Oh, okay.

16 MS. SEARS: I guess I never -- I just
17 don't --

18 BY MR. GERHARDSTEIN:

19 Q. So you're saying that you don't even
20 recognize this as the -- as a drawing of the
21 patio where Mr. Roell died?

22 A. Right. I mean, I'm trying to depict
23 where --

24 Q. Okay. So it looks like the gate is
25 here.

1 A. Okay.

2 Q. Take a minute and see if that helps
3 you.

4 MS. SEARS: Where did you tell him the
5 gate was? I'm so sorry.

6 MR. GERHARDSTEIN: Right here.

7 MS. SEARS: All right.

8 I just want to make sure.

9 BY MR. GERHARDSTEIN:

10 Q. Does that help?

11 A. Yeah.

12 Q. Okay. So the gate is in the lower
13 left-hand corner as we put this in front of us
14 with the punch holes on the top.

15 Can you, using that red pen, show me
16 where you first tased Mr. Roell?

17 A. It would have been right outside.

18 Q. All right. So you've marked with an X
19 the first -- the site of the first tasing,
20 right?

21 A. Right.

22 Q. And then mark with a T the place where
23 you did the second tasing.

24 A. The drive stun or the --

25 Q. Well -- okay.

1 In sequence, the drive stun was second.

2 So put that down with a T.

3 A. Okay. It was somewhere on the ground
4 in here.

5 Q. So that would be toward the center of
6 the --

7 A. Right.

8 Q. -- of the patio?

9 And then mark with an S the site of the
10 second cartridge being deployed.

11 A. Right in there.

12 Q. All right. And that's over by the
13 mulch, which is marked as mulch, which you said
14 had a -- a plant that --

15 A. It was a tree, yes.

16 Q. -- Officer -- or Deputy Alexander
17 was here.

18 Now, at the time Mr. Roell lost his
19 cardiac function, where was he located? Why
20 don't you mark that with an R?

21 A. It was back in the middle.

22 Q. And were there any other events that
23 occurred inside the patio at different locations,
24 other than what you've marked here on
25 Exhibit 8?

1 A. Not while we were -- not while we were
2 there.

3 Q. And the only egress and entry to the --
4 to the patio was through the gate and into the
5 house through a glass door, right?

6 A. Right.

7 Q. The other areas along the fence didn't
8 have additional gates, right?

9 A. Right.

10 Q. Okay. At any point, did you observe
11 any glass on the surface of the patio?

12 A. Not at the time, no.

13 Q. I'm going to give you a blank piece of
14 paper and a pen. And I'm going to ask you to
15 draw the driveway, how it was configured, and to
16 place your cruiser in it and Deputy Alexander's
17 cruiser in it.

18 So I'd like on the diagram the driveway
19 and then the condos, so that we can see where
20 they were in relationship to your cruisers when
21 you -- when you parked.

22 A. This is your condos.

23 Q. Okay. But write the word condo there.

24 A. (Witness complies.)

25 Q. And put a divot as to which way the

1 front would be.

2 A. (Witness complies.)

3 Q. And where is the subject's condo, the
4 one that --

5 A. This one.

6 Q. Okay. So --

7 A. I came in this way, looking for the
8 address.

9 Q. Do you know where north is on this?

10 A. I believe it's up that way.

11 Q. Okay. Put the -- put N down.

12 A. (Witness complies.)

13 Q. Okay. So you entered coming north and
14 then went east around -- is this an island of
15 some kind?

16 A. It's -- it's a, I think, covered
17 garages, is what it really is.

18 Q. Okay.

19 A. Parked cars all -- all through here.

20 Q. Okay. And are there mailboxes along
21 there?

22 A. I don't think so. I think the
23 mailboxes were over here.

24 Q. Okay. And you can put the word
25 mailboxes there.

1 And put the carport where that is.

2 What's that? Those are more condos
3 there?

4 A. Yeah.

5 Q. Okay.

6 MR. GERHARDSTEIN: All right. Let's
7 mark this.

8 (Deposition Exhibit 9 was marked for
9 identification.)

10 MS. SEARS: Are you going to keep using
11 that, Al? We can make a copy of it after.
12 I'll make a copy of it.

13 BY MR. GERHARDSTEIN:

14 Q. Okay. Can you just mark on here the
15 direction of your travel? Just put some arrows
16 along the way that shows how you traveled.

17 A. (Witness complies.)

18 Q. All right. And then the condo that
19 Mr. Roell had -- had gone to the back of, was
20 it at the very end on the north side of that set
21 of buildings, right?

22 A. Right.

23 Q. Okay.

24 (Deposition Exhibit 10 was marked for
25 identification.)

1 BY MR. GERHARDSTEIN:

2 Q. I'm going to show you what's been
3 marked as Exhibit 10. Do you recognize this?

4 MS. WOEBER: Was the diagram 10?

5 MS. SEARS: No, it's not.

6 That's 8, and this is 9. I'll make a
7 copy of this.

8 A. This is the carport.

9 BY MR. GERHARDSTEIN:

10 Q. This is the carport at the condo area
11 where you engaged Mr. Roell?

12 A. Yeah.

13 Q. So when you were entering the facility,
14 did you notice the mailboxes with all those
15 plants stuffed in them?

16 A. No.

17 (Deposition Exhibit 11 was marked for
18 identification.)

19 BY MR. GERHARDSTEIN:

20 Q. Did there come a time when you learned
21 that Mr. Roell was actually the next-door
22 neighbor to the complainant?

23 A. Afterwards, yeah.

24 Q. And when you came to the condo units,
25 did you notice that the condo next door to the

1 complainant was wide open and there was debris
2 scattered about in the open doorway?

3 A. No.

4 Q. This is a photograph of that condo
5 unit. Does this refresh your recollection as to
6 what the scene was like when you came up?

7 A. No.

8 (Deposition Exhibit 12 was marked for
9 identification.)

10 BY MR. GERHARDSTEIN:

11 Q. And this is Exhibit 12. Do you
12 recognize this?

13 A. Yes.

14 Q. Is this a photograph of the planter
15 with the peat moss base and the plastic wrapping
16 around it?

17 A. Yeah.

18 Q. And that's what you -- that's what
19 Mr. Roell was holding in one of his hands,
20 right?

21 A. Correct.

22 (Deposition Exhibit 13 was marked for
23 identification.)

24 MR. GERHARDSTEIN: Is this 13?

25 THE REPORTER: Uh-huh.

1 BY MR. GERHARDSTEIN:

2 Q. Do you recognize this?

3 A. Yeah.

4 Q. And is that the garden hose that he was
5 holding in the other hand?

6 A. Yes.

7 Q. And was the garden hose from the
8 neighbor's property, the complainant's property,
9 or was it from somewhere else?

10 A. I believe it was the complainant's
11 property.

12 Q. Was the water running when he was
13 holding it?

14 A. I don't think so.

15 Q. And at the top right there, you get a
16 little sense of the size of the gate opening,
17 right?

18 A. Right.

19 (Deposition Exhibit 14 was marked for
20 identification.)

21 BY MR. GERHARDSTEIN:

22 Q. I'm going to show you what's been marked
23 as Exhibit 14. Is this the direction of travel
24 that you walked after you arrived at the scene in
25 order to get back to the patio where Mr. Roell

1 was located?

2 A. Yeah, this area. We ran back.

3 Q. Okay. And so that last unit that we
4 see on the left side of the photograph would be
5 the complainant's unit, right?

6 A. Yes.

7 Q. And that's the privacy fence that
8 surrounded the patio, right?

9 A. Yes.

10 Q. And do you know what officer that is?

11 A. I have no idea.

12 (Deposition Exhibit 15 was marked for
13 identification.)

14 BY MR. GERHARDSTEIN:

15 Q. And I'm going to show you Exhibit 15.
16 Is this a photograph of the patio area depicting
17 the gate and the privacy fence?

18 A. Yes.

19 Q. And would you agree that the plant that
20 Deputy Alexander was up against is -- you can see
21 the top of it above that privacy fence on the
22 left, right?

23 A. Yeah.

24 Q. And when you say he was up against
25 that, was he standing?

1 A. He was standing. His back was into the
2 tree there.

3 Q. Okay. And was he still holding
4 Mr. Roell?

5 A. I think they had ahold of one another.
6 But I'm not 100 percent sure.

7 Q. And what side of him was he on?

8 A. Who?

9 Q. What side of Mr. Roell was
10 Deputy Alexander on?

11 A. Deputy Alexander's back was into the
12 tree.

13 Q. Uh-huh.

14 A. Mr. Roell was facing him.

15 Q. Was facing him. And then where was --

16 A. So I guess his back would probably be
17 down the condos.

18 Q. Okay. And where was Dalid?

19 A. I don't know where he was at that time;
20 somewhere in the back.

21 Q. Where you were you?

22 A. Behind all of them.

23 Q. Were you off work for any period of
24 time as a result of the use of force
25 investigation of Mr. Roell's death?

1 A. They gave us a day off. Then that
2 followed into our off days.

3 Q. So you were only off of work day for
4 one day?

5 A. Yes.

6 Q. And was that was a paid day?

7 A. Yes.

8 Q. Have you ever listened to any of the
9 interviews of any of the other officers?

10 A. No.

11 Q. Have you ever read any of the
12 documentation surrounding the use of force
13 investigation?

14 A. No.

15 Q. Did you examine the incident recall
16 records with respect to this event?

17 A. No.

18 Q. Have you ever worked dispatch?

19 A. No.

20 Q. Did this encounter with Mr. Roell end
21 as you had planned it?

22 MS. SEARS: Objection. Objection.

23 What do you mean, with his death?

24 A. No.

25 BY MR. GERHARDSTEIN:

1 Q. What's surprised you?

2 A. We're not there to intend to take
3 somebody's life, if that's what you're
4 implying.

5 Q. Is there anything, as you think back
6 about it, that you would have done differently in
7 the way you approached Mr. Roell?

8 A. No.

9 Q. Okay.

10 MR. GERHARDSTEIN: All right. I don't
11 have any more questions.

12 MS. SEARS: Do you mind if I just have
13 this diagram that he did, and we'll have it
14 out.

15 MS. WOEBER: Copies?

16 MS. SEARS: Gus can do it. You all
17 want copies?

18 Two copies for them and two copies for
19 us, please.

20 EXAMINATION

21 BY MS. SEARS:

22 Q. Deputy Dalid (sic), I want to follow up
23 on a few things that Mr. Gerhardstein --

24 MS. SEARS: Is that correct? I'm
25 sorry.

1 MR. GERHARDSTEIN: That's fine.

2 MS. SEARS: I try very much not to
3 mispronounce it.

4 BY MS. SEARS:

5 Q. -- that Mr. Gerhardstein covered.
6 Okay?

7 Do you want some more water, or are you
8 good?

9 A. No. I'm good.

10 Q. The testimony that you're giving here
11 today, is it, sir, to the best of your
12 recollection?

13 A. Yes.

14 Q. You had indicated to Mr. Gerhardstein
15 that you had reviewed a copy of your -- a
16 transcript of your statement given at the time,
17 as well as a videotape. You did both of those
18 things, right?

19 A. Yes.

20 Q. To the extent that your testimony here
21 today may differ in some detail from what you
22 gave at the time, which -- which statement do you
23 think would be more accurate?

24 MR. GERHARDSTEIN: Objection.

25 BY MS. SEARS:

1 Q. Go ahead.

2 MR. GERHARDSTEIN: You can answer.

3 A. Probably the -- the video statement
4 right after the incident occurred.

5 BY MS. SEARS:

6 Q. You talked with Mr. Gerhardstein a
7 little about your training. And you referred to
8 your corrections training, right --

9 A. Right.

10 Q. -- your corrections academy?
11 And you indicated that was a two-month
12 academy?

13 A. I believe so, yes.

14 Q. And in your corrections academy, did
15 you have occasion to have any instruction or any
16 units on interpersonal communications?

17 A. Yes.

18 Q. And what can you recall about those
19 units, if anything, for me?

20 A. Just -- basically, just the way you
21 talk to people, how you handle a situation.

22 Your mouth is your best tool. You'd
23 rather talk things out than have to go physical
24 with -- with anybody.

25 Q. In the jail population, you mean --

1 A. Correct.

2 Q. -- or in corrections?

3 A. Pretty much everywhere; but in the
4 jail.

5 Q. And in the -- in the interpersonal
6 communications training, was there content on how
7 to talk to people appropriately in high-risk
8 situations?

9 A. Yes.

10 Q. Was there instruction on how to make
11 inferences in certain situations as to the level
12 of risk and the appropriate response?

13 A. Yes.

14 Q. Was there instruction on how you
15 posture and how you conduct yourself to minimize
16 confrontation?

17 A. Yes.

18 Q. And you said your mouth is your best
19 tool; is that right?

20 A. Correct.

21 Q. Explain to us what you mean by that.

22 A. I'd rather talk somebody out of a
23 situation, rather than go in there and go
24 hands-on, and just talk to them, deescalate, try
25 to get them to do what you want with your mouth,

1 instead of go in there, guns blazing and just try
2 to --

3 Q. Now, when you say guns blazing, you
4 don't mean literally, do you, in a jail?

5 A. No, no.

6 Q. Because what are you equipped with in
7 the jail besides your mouth and your -- and your
8 hands, obviously?

9 A. Just a radio. That's it.

10 Q. Just a radio?

11 A. Radio and handcuffs.

12 Q. And when you are in corrections, in a
13 particular pod, let's say, as opposed to -- there
14 is booth that you're assigned to; is that right?

15 A. Yes.

16 Q. And that's an enclosed area?

17 A. Yes.

18 Q. Inmates don't have access to that? Or
19 do they? I don't --

20 A. No.

21 Q. And there are something called rovers
22 or persons assigned to the pods; is that -- am I
23 correct about that?

24 A. No. A rover is just somebody that
25 transports inmates.

1 Q. Oh, okay.

2 So how many deputies would there be
3 assigned to a particular pod?

4 A. To one unit, just two.

5 Q. Two deputies to how many inmates?

6 A. You've got up to -- I forget how many
7 cells there are. But usually it's double-cell.
8 I think there's 56 cells, if I'm -- so about --
9 over 100.

10 Q. All right.

11 A. Maybe over 100.

12 Q. Okay. I won't call you on the --

13 A. Right.

14 Q. -- detail. But -- okay.

15 So you're just estimating based on your
16 recollection --

17 A. Right.

18 Q. -- that there are about 100 --
19 potentially 100 inmates in a pod --

20 A. Correct.

21 Q. -- to two deputies; is that correct?

22 A. Yes.

23 Q. So is it a fair statement to say that
24 any -- at any time, you're outmanned --

25 A. Oh, absolutely.

1 Q. -- or outwomaned --

2 A. Absolutely.

3 Q. -- depending on the situation? All
4 right.

5 In your IPC -- IPC unit -- is that --
6 is that what you call it, your interpersonal
7 communications unit that you had in the -- in the
8 corrections academy? That's what you guys refer
9 to it as, IPC?

10 A. IPC skills is what it's called.

11 Q. Okay. So can I just call it IPC and
12 we'll know what I'm --

13 A. Yeah.

14 Q. -- you'll know what I'm talking about?

15 Okay. So in your IPC unit, were you
16 also instructed how to, I guess, read a person's
17 affect, their body language, their appearance,
18 including what they did -- what they verbally
19 said, and, of course, their nonverbals in order
20 to assess the risk and the level of tension or --
21 or risk involved in the situation?

22 A. Yes.

23 Q. In your IPC unit, were you taught or
24 instructed or given some techniques on how to
25 formulate an appropriate response to the risk

1 that you assessed in order not to, I guess,
2 accentuate the risk, but rather defuse it?

3 A. I don't -- I don't remember.

4 Q. Okay. Were you -- if you recall --
5 were you given some techniques or tools as to how
6 to apply the behavior that -- or the skills that
7 you were taught in IPC in the corrections
8 setting, if you recall?

9 A. I -- I don't really recall.

10 Q. Now, this training, was this
11 scenario-based training and/or lecture-based
12 training, if you recall?

13 A. I know it was lecture-based. I don't
14 know if it was scenario-based or not. I can't
15 remember.

16 Q. Can't remember?

17 MS. SEARS: If we could mark this as
18 Exhibit A, please.

19 (Deposition Exhibit A was marked for
20 identification.)

21 MS. SEARS: And then, Al, I have one
22 for you that's in a Redweld so you don't --
23 you can go along with these other two.

24 These will be our next two exhibits.
25 So this will be A.

1 BY MS. SEARS:

2 Q. So, Deputy Huddleston, I'll just ask
3 you to look -- I'm not going to ask you to read
4 this. I think it's about 345 pages or so. I
5 don't know. I can't remember how many it is.
6 Let's see how good of a memory I have; 342.

7 So I'm just -- I know Mr. Gerhardstein
8 offered you kind of a curriculum that was the
9 peace officer training curriculum portion. And
10 there are similarities in the -- in the way that
11 they're designed.

12 But can you just maybe take a glance at
13 the first couple pages and tell me if you -- if
14 this appears to be the curriculum that -- on IPC,
15 interpersonal communications corrections
16 training, that you took prior to becoming a
17 corrections officer for Hamilton County?

18 A. Yeah; looks familiar.

19 Q. Okay. And then when you -- I think you
20 indicated to Mr. Gerhardstein that you -- you
21 were graded in that academy. And you were
22 successful in completing that academy; is that
23 right?

24 A. Yes.

25 Q. Okay.

1 MS. SEARS: I'm sorry. You know what I
2 was going to do for you is give you a
3 Redweld. I'll just give you this Redweld so
4 you don't have to worry about losing some of
5 that. Because -- do you want to put that in
6 there, Exhibit A? You want to put that in
7 that Redweld there?

8 THE WITNESS: Oh.

9 MS. SEARS: -- for the court reporter?
10 It's a littler easier for her to take.

11 BY MS. SEARS:

12 Q. So -- oh.

13 MS. SEARS: I'm sorry. I'm really bad
14 about handing you things and then keep
15 talking --

16 THE REPORTER: Okay.

17 MS. SEARS: -- and forgetting that you
18 have -- exactly. I'm bad at it. I'm really
19 bad at it.

20 I get in my own little world. So don't
21 hesitate -- you're in charge of me. So
22 don't hesitate to throw the high sign and
23 tell me to be quiet until you get ready to
24 type.

25 THE REPORTER: Okay.

1 BY MS. SEARS:

2 Q. All right. So, Deputy, I think you
3 indicated to Mr. Gerhardstein -- stein that you
4 were able -- you passed that academy, that
5 corrections academy, and you became a corrections
6 officer for Hamilton County; is that right?

7 A. Yes.

8 Q. Okay. So remind me again how long you
9 worked in corrections. I know you told
10 Mr. Gerhardstein, but I didn't write it down.
11 I'm sorry.

12 A. I believe I was there seven-and-a-half
13 years.

14 Q. Okay. And while you were in
15 corrections, did you have the opportunity to
16 employ the skills that you've been taught in your
17 IPC training on a daily basis?

18 A. Yes.

19 Q. And were you able to diffuse a
20 situation using your -- your verbal skills and
21 the skills that you were taught?

22 A. Yes.

23 Q. Now, while you were in corrections
24 during this time, did you have a -- did you have
25 an opportunity to practice these interpersonal

1 skills on a daily basis?

2 A. In the jail? Yes.

3 Q. And did you have occasion to have
4 scenarios that maybe you were not certain how to
5 respond to them, to run them by supervisors to
6 maybe get the benefit of some sort of on-the-job
7 training?

8 A. Some of the time.

9 Q. You told Mr. Gerhardstein, or you
10 mentioned something about the CERT team,
11 Corrections Emergency Response Team.

12 A. Right.

13 Q. That's what I wrote down.

14 Can you tell me what exactly that is?

15 A. It's just an emergency response team.
16 It's a group of guys who get all dressed up with
17 protective clothing, protective gear, to go in
18 and handle situations where the inmate's not
19 going to comply, no matter who's there and who's
20 talking to them.

21 Then we have to go in there and deal
22 with the situation.

23 Q. Now, is the CERT team composed only of
24 men?

25 A. There's women on it.

1 Q. There are?

2 A. Yes.

3 Q. Okay. And they use a CERT -- they wear
4 protective gear?

5 A. Yes.

6 Q. And do they have those -- those masks?

7 A. Yes.

8 Q. You know, the plastic in the front and
9 they look -- I mean, the gear kind of makes you
10 look a little menacing, as I'm thinking of what
11 it is.

12 A. Yeah. It's --

13 Q. Like all black?

14 A. All black. You've got kneepads, elbow
15 pads, body -- body vests, helmet.

16 Q. Okay. Any other -- any other weapons
17 or anything, any sticks or anything like that, or
18 batons or --

19 A. I think there's certain people that
20 stand in the back that carry pepper ball guns,
21 just in case.

22 You've got mace and stuff you carry.
23 But you try to go hands-on first before we use
24 any of that stuff.

25 Q. And is one of the concerns in

1 corrections, even on the CERT team, is that
2 whatever you may have on you that could be
3 converted into a weapon you maintain under your
4 control?

5 A. Right.

6 Q. And is there some concern about making
7 sure the things that you do have on your person
8 can be controlled, even if an inmate couldn't get
9 control of them?

10 A. Yeah.

11 Q. Is that right?

12 A. Yes.

13 Q. And why is there a CERT team, do you
14 know?

15 A. Just we're the ones that go in there
16 and deal with the stuff that other officers
17 can't, or just go in there and control -- control
18 the situation, to show force, force by numbers,
19 and --

20 Q. And when -- what kinds of events or
21 scenarios would exist where a CERT team would be
22 called, as opposed to just the deputies on pod,
23 or maybe some reinforcements handling it?

24 A. There's numerous -- there's inmates
25 refusing commands, refusing orders, refusing to

1 go back to their cell, destroying the pod.

2 Or we have other situations where
3 you've got inmates that need to come out of their
4 cells because they're -- they're smearing feces
5 and stuff on the side of the walls. And we've
6 got to go in there and get them out, as well.

7 Q. And is there a tactical consideration
8 or a safety -- an officer safety consideration of
9 sending one or two deputies in there as opposed
10 to maybe having a show of force?

11 A. Yes.

12 Q. And what is that?

13 A. We send -- I think there's at least
14 four, four or five on a team.

15 They go in -- it's not just one -- one
16 guy at a time, not just two guys at a time. We
17 all go in.

18 Q. Now, are there some, I guess, adverse
19 tactical considerations for having, you know, six
20 or seven officers on -- in one scenario?

21 A. Right.

22 Q. And what would those adverse
23 technical -- or tactical considerations be?

24 A. In the jail setting? Just coming in
25 different doors. If -- setting up differently,

1 maybe three and four.

2 You just separate -- separate guys.

3 Q. So I'm not understanding you.

4 So I'm talking about a reason why you
5 wouldn't want six or seven guys.

6 A. Oh.

7 Q. Yes. That's what -- sorry.

8 A. I'm sorry.

9 Q. No. It's my fault. If you don't
10 understand a question, it's always my fault.

11 I meant were there -- are there any
12 negative reasons why you wouldn't want six or
13 seven guys in a certain unit, or any other unit,
14 going in and handling the situation?

15 A. It's just -- it's just too many people.
16 It's easier just to have a small group in there
17 to get ahold of the subject, rather than having
18 20 arms in there trying to fight for the same
19 limb.

20 Q. Uh-huh. And is there a tactical
21 consideration of officers, a sort of a friendly
22 fire kind of situation?

23 A. Yeah, kind of.

24 Q. So is it fair to say -- or correct me
25 if I'm wrong -- that the CERT unit is a

1 specialized unit?

2 A. It is.

3 Q. And how is it that you become a member
4 of the CERT -- how are you chosen to become one
5 of those people?

6 A. You've got to be physically fit.
7 You've got to go through a physical training.

8 Q. What kind of physical training?

9 A. You've got to do your run, push-ups,
10 sit-ups in a certain amount of time.

11 Q. Okay.

12 A. You have to take a test, have to sit
13 through -- I think it's a week-long -- I think
14 it's a -- now it's a week-long, or was a
15 week-long course you have to sit through.

16 And you have to take a test at the end.

17 Q. Okay. In your corrections academy, do
18 you have a unit on subject control?

19 A. Yes.

20 Q. And is -- is that a physical unit where
21 you -- you actually engage in subject control
22 maneuvers and techniques?

23 A. Yes.

24 Q. And are you taught sort of hands-on
25 physical control?

1 A. Yes.

2 Q. And can you tell me what some of the
3 hands-on physical control techniques that you
4 were taught would be appropriate to use in the
5 corrections center?

6 A. You've got the arm bar, arm bar
7 takedown grab the arm and take them down, just
8 get them to the ground as good as you can, and
9 then try to get -- try to get each arm; control
10 them, just control the limbs and stuff like that,
11 so they can't fight, kick; along those lines.

12 Q. Okay. And in this physical control
13 unit, are you taught techniques that are designed
14 to take control of the subject as expeditiously
15 or as quickly as possible?

16 A. Yes.

17 Q. Are there tactical considerations for
18 taking control of the subject as quickly as
19 possible?

20 A. Yes.

21 Q. And what are those tactical
22 considerations?

23 A. Get them into custody as quickly as you
24 can to prevent injury to yourself or others.

25 Q. And what about the subject?

<http://www.yclaw.net/help>

1 A. Yeah, and the subject.

2 Q. To prevent injuries to the subject?

3 A. To prevent injury to the subject.

4 Q. And are there -- are you taught
5 tactical considerations of using the least amount
6 of force to gain subject control?

7 A. Yes.

8 Q. Now, can you tell me the difference
9 between hands-on physical maneuvers and what are
10 called and sometimes referred to as hard-hands?

11 What are hard-hands?

12 A. Hard-hands is like your fist. It's
13 going to be your batons. It's going to be your
14 Taser, your mace, intermediate weapons.

15 Q. Okay. So correct me if I'm wrong. If
16 I'm going hands-on with somebody, I might grab
17 their arm and try to bring it behind their back
18 and force them to the ground?

19 A. Right.

20 Q. Would that be a hands-on technique?

21 A. That would be your -- your physical
22 force, you're grabbing on the arms.

23 Q. If they're coming at me and I just cold
24 cock them with my fist right in the nose and
25 knock them on their rear end, is that a

1 hard-hands technique?

2 A. Yeah.

3 Q. If I take my heel -- my heel of my hand
4 and strike them in their calf area or some other
5 place to gain pain compliance, is that a
6 hard-hands technique?

7 A. Yeah.

8 Q. Are pain compliant techniques used with
9 a Taser, for example, the stun -- the drive stun
10 gun; is that a pain compliance technique?

11 A. Yes.

12 Q. Are those all considered hard-hands
13 techniques?

14 A. Yes.

15 Q. Okay. So we've established that the
16 CERT is a specified -- a special unit that not
17 everyone is -- is invited to join; is that
18 correct?

19 A. Correct.

20 Q. And do you know how it is -- well, let
21 me ask you this.

22 How long were you in corrections before
23 they -- before you joined CERT?

24 I don't know how you came to be on
25 CERT. I guess I should ask you that next.

1 A. I don't remember how long I was on,
2 maybe two or three years -- three years maybe.

3 Q. Three years in corrections before you
4 went to CERT -- before you became part of the
5 CERT --

6 A. Maybe four, a little longer.

7 Q. Do you recall how it is that you became
8 part of CERT? Did someone ask you to? Did you
9 apply for it? How did that -- how did --

10 A. I think it all started with the
11 initial -- having that lieutenant call me up to
12 tase that one girl.

13 And then I asked to be on the team.
14 Then they set up a -- a program to get on the
15 team, the test, and all those requirements.

16 Q. And when you went through that CERT
17 program to be on the team, were you the only one
18 going through the program at that time, or were
19 there other --

20 A. No. There was a handful of people.

21 Q. Was Deputy Alexander in that group at
22 that time?

23 A. I think so, yes.

24 Q. And on CERT, once you were on a team,
25 did you receive some specialized training on

1 different -- different types of scenarios while
2 you were on CERT; I'm thinking, for example,
3 counter-terrorism training that you had.

4 A. Counter-terrorism? I don't know.

5 Q. You don't remember?

6 A. We did do some other specialized
7 tactical training.

8 Q. Okay. And was it -- this tactical
9 training, was it specifically designed for the --
10 for the jail context?

11 A. Yes.

12 Q. And so this tactical training, did
13 it -- did it have a component building on or some
14 aspects of this interpersonal communication piece
15 that we talked about? Or was it mostly just the
16 physical kind of tactical maneuvers?

17 A. No. It had the IPC skills involved.

18 Q. As well as physical tactical maneuvers?

19 A. Correct.

20 Q. And how many of those kind of
21 specialized units or trainings, in-service,
22 whatever you want to call them -- how many of
23 those would you have over the course of your time
24 in corrections that you had the benefit of
25 participating in?

1 A. I think they do it once a month.

2 Q. Once a month?

3 A. Yeah.

4 Q. And these trainings, would they be on
5 specialized topics, or -- I mean, how -- how did
6 that work?

7 A. It would -- it was for four hours, once
8 a month.

9 Q. Uh-huh.

10 A. You go to a certain cell --

11 Q. Uh-huh.

12 A. -- or a certain pod.

13 Q. Yes.

14 A. They clear out all the inmates. And
15 we'd do tactical stuff in there about getting
16 inmates out of cells or -- or going in pods if an
17 inmate's refusing to go into a cell and was just
18 out in the middle of the pod; how to take care of
19 that.

20 Q. So these were scenario-based trainings?
21 Am I --

22 A. Scenario-based, and we also had -- at
23 the end, the last hour was like test-based
24 questions.

25 Q. Were you evaluated on your performance,

<http://www.yeslaw.net/help>

1 like given feedback?

2 As you did something, would the
3 instructor go, wow, that was great, this is how I
4 would do it differently? Was it sort of give and
5 take?

6 A. Yeah. It was verbal feedback.

7 Q. And on -- while you were in
8 corrections, if you can tell us, how many CERT
9 incidents, actually, were you called upon to
10 participate in?

11 A. I -- I can't recall. It was probably
12 ten, ten or more.

13 Q. Okay. And in those CERT incidents, was
14 anyone hospitalized as a result of what you had
15 to do?

16 A. No.

17 Q. Was anyone injured, to your
18 knowledge?

19 A. No.

20 Q. And is that sort of the goal of the
21 whole thing --

22 A. Yes.

23 Q. -- to not injure anyone?

24 Now, let's translate that for just a
25 heartbeat to the real world and not the jail

1 setting. Okay?

2 Are there some differences, from your
3 perspective as a tactical -- from a tactical
4 standpoint, from a CERT team going into a cell
5 and, for example, you and Deputy Alexander and
6 Dalid responding to a neighbor trouble run?

7 A. Is there a difference?

8 Q. Yes, from a tactical standpoint.

9 A. Just a little bit, because it's --

10 Q. What would that be?

11 A. It's more real world.

12 You have a chance of weapons on the --
13 on the outside, rather than you do on the --
14 in -- in jail.

15 Q. Uh-huh.

16 A. So you've got to be -- pay a little
17 more attention to that. But it's basically --
18 it's basically the same.

19 Q. Would you say that in the jail context
20 that there are less variables that are out of
21 your control than there are in the real-world
22 context?

23 A. Yes.

24 Q. Would you say so?

25 A. Yeah.

1 Q. All right. So then you talked to
2 Mr. Gerhardstein a little bit about -- stein -- a
3 little bit about the psych ward. You said you
4 worked in the psych ward.

5 When in the course of your employment
6 with the sheriff's department, and in
7 corrections, I guess -- how long had you been on
8 before you went and worked in the psych ward?

9 A. I -- I can't remember; maybe saying
10 about four years.

11 Q. And were you chosen to work in the
12 psych ward? Or did you ask like you did with
13 CERT?

14 How did it come to be that you worked
15 in the psych ward?

16 A. I asked to go down there. I asked to
17 work down there.

18 Q. And I think you answered this to
19 Mr. Gerhardstein, why you wanted to go down
20 there. But tell me that again, because I didn't
21 write it down. I'm sorry.

22 A. I like -- like dealing with those type
23 of people and trying to help them out.

24 Q. Had you had any involvement or dealings
25 with people that had mental health issues and

1 mental health problems prior to working in the
2 sheriff's department?

3 A. No, not really.

4 Q. And while you were in the
5 corrections -- you know, out in the general --
6 call it general population. Is that -- can I
7 say --

8 A. Yeah.

9 Q. -- that?

10 Did you come into contact with people
11 who -- that it was determined had mental health
12 issues?

13 A. Yes.

14 Q. Did you come into contact with people
15 who had substance abuse issues?

16 A. Yes.

17 Q. Did you have to come into contact with
18 people who we call dually diagnosed, having both
19 substance abuse issues and mental health
20 issues?

21 A. Yes.

22 Q. Did you come into contact with people
23 who were currently intoxicated?

24 A. Yes.

25 Q. Did you come into contact with people

1 who were currently under the influence of drugs?

2 A. Yes.

3 Q. Did you ever come into contact with
4 anyone that was under the -- under some other
5 kind of medical, I guess, adverse situation, like
6 an epileptic seizure or a diabetic coma or some
7 other kind of what turned out to be a medical
8 problem that mimicked intoxication?

9 A. Yeah.

10 Q. And at the time you observed the
11 behavior, were you able to determine, boy, this
12 is -- this is intoxication, this is, you know
13 withdrawal from psychotropic medication? Were
14 you able to make those distinctions when you
15 observed the person?

16 A. No.

17 Q. Did you rely on medical personnel to
18 make those determinations?

19 A. Yes.

20 Q. So you asked to go down to the psych
21 unit --

22 A. Yes.

23 Q. -- to work down there?

24 And how did that process occur and how
25 were you approved or selected, or how did that

1 happen?

2 A. Like I said, there was about four or
3 five officers that worked in there. And I guess
4 they were short one weekend or -- and they put me
5 down there to fill.

6 And after a while, I just stayed.

7 Q. And is that -- is that because -- I
8 mean, why is that, do you know?

9 A. I liked it. They knew I did a good job
10 down there.

11 Q. In the psych ward as opposed to the
12 general population, tell me what similarities
13 there were in your role in -- in terms of the IPC
14 skills.

15 What was similar in those two
16 populations?

17 A. I mean, you still have to -- to talk to
18 them to get them to calm down. I mean, they
19 still get agitated like a normal person. But you
20 still got to get them to calm down.

21 And it might take a little longer, but
22 you just -- you just know how they are and how
23 they act and --

24 Q. You got to know them; is that what
25 you --

1 A. Yeah. You get to -- you get to know
2 them.

3 Q. And were there some people in the psych
4 ward that were on their medications?

5 A. Yes.

6 Q. Were there some people in that psych
7 ward that were off their medications?

8 A. Yes.

9 Q. Was there a similarity between the two
10 populations in reading nonverbal skills to make
11 assessments as to whether the situation was going
12 to be high-risk, low-risk, medium-risk, or
13 whether there was going to be some physical
14 altercation?

15 A. Yeah.

16 Q. In the actual psych ward itself, can
17 you tell me how -- how that was staffed?

18 So like let's say -- I don't know what
19 the shifts are.

20 But let's say you're in a shift and
21 you're in the psych ward. How many deputies are
22 in the psych ward?

23 A. I think there is four or five.

24 Q. Okay. Can you -- do you know, if you
25 recall, where they might be located? Did they

1 have particular assignments?

2 A. One's in the booth. There was like a
3 two-hour rotation.

4 Q. Okay.

5 A. One's in the booth, door -- on the
6 door, opening up the doors, computer, phone.

7 Q. Is this the same as general, the
8 inmates don't have passes?

9 A. Right.

10 Q. Okay.

11 A. One guys's in B Pod, which is a suicide
12 watch pod. He's got to walk around and check
13 inmates ten -- every ten minutes.

14 Q. Okay.

15 A. And then, I guess, it's just two other
16 guys. I guess there's only four.

17 Then the two other guys are the -- the
18 floaters, walking around checking on all the
19 other inmates and helping medical staff give out
20 medications and whatnot.

21 Q. Okay. So there's the -- there are
22 three or four pods, right?

23 A. Yes.

24 Q. And in C Pod -- how many people would
25 be in C Pod at any particular time?

1 A. That's -- that's the biggest, so
2 maybe -- I can't remember; 36, 30.

3 Q. Okay. And while you were in the --
4 working in the psych unit, did you have occasion
5 to utilize the interpersonal skills that you
6 learned in the academy and then -- and then, I
7 guess, used on a daily basis while you were in
8 the general population corrections?

9 A. Yes.

10 Q. And was there ever an incident that you
11 weren't able to handle using your interpersonal
12 skills that got out of control? Or is there
13 anything like that that had ever happened?

14 A. Yeah.

15 Q. Okay. Tell us about that.

16 A. I just remember one time I was trying
17 to get this guy to calm down and got back into
18 his cell. And he -- he came at me. So we had to
19 go hands-on again --

20 Q. Okay.

21 A. -- had to take control of the
22 situation.

23 Q. All right. And was this someone that
24 you had had some contact with before this
25 incident?

1 A. I believe so.

2 Q. And so this is someone that maybe you
3 knew their name and you had a relationship --

4 A. Yeah.

5 Q. -- somewhat of a relationship with
6 them?

7 Nevertheless, they became agitated for
8 some reason?

9 A. Right.

10 Q. And you weren't able to defuse that?

11 A. Right.

12 Q. Did you try to defuse it?

13 A. I did.

14 Q. And -- but you weren't successful --

15 A. Right.

16 Q. -- in that particular situation?

17 So you had to go hands-on?

18 A. Hands-on.

19 Q. And was that hard-hands or just
20 hands-on?

21 A. Just hands-on.

22 Q. I think that Mr. Gerhardstein asked you
23 about the patrol academy. And you indicated you
24 attended Butler Tech's patrol academy --

25 A. Yes.

1 Q. -- is that right?

2 And were you also working at the
3 sheriff's department while you attended that
4 academy?

5 A. I was.

6 Now, Mr. Gerhardstein showed you --

7 MS. SEARS: Well, before I do that, let
8 me -- this would be B.

9 (Deposition B was marked for
10 identification.)

11 BY MS. SEARS:

12 Q. I'll show you what I've marked as
13 Exhibit B for purposes of your deposition.

14 This purports to be an Ohio peace
15 officer training curriculum, basic training
16 curriculum. Could you just look at it, just
17 glance at it?

18 I don't expect you to read it or -- or
19 take too much time with it. And just let me know
20 when you've accomplished that.

21 A. Okay.

22 Q. You have?

23 Do these topics appear to be the topics
24 that you would have taken in the basic police
25 officer academy course?

1 A. Yes.

2 Q. And is this academy course curriculum,
3 if you know -- is it mandated by OPOTA?

4 A. Yes.

5 Q. And at the close of the academy, I
6 think you told Mr. Gerhardstein, you have to take
7 a test, right?

8 A. Correct.

9 Q. And that's a state-administered OPOTA
10 test. Am I right about that?

11 A. Yes.

12 Q. And there's a physical component. Is
13 there -- and a written component?

14 A. Yes.

15 Q. And you passed that on the first try?

16 A. Yes.

17 Q. If I could just call your attention to
18 the top, it says -- this particular Exhibit B
19 says this curriculum was 558 hours. Does that
20 seem right to you, or do you not recall?

21 A. It seems right. I thought it was
22 longer.

23 Q. Were you doing a day academy or doing
24 it at night?

25 A. Daytime.

1 Q. And can -- and just Unit 1,
2 Administration, if I could call your attention to
3 5 or -- 5 and 6, there's a unit here on ethics
4 and professionalism in community policing; is
5 that right?

6 A. Yes.

7 Q. Did you take those units --

8 A. Yes.

9 Q. -- to your knowledge?

10 In terms of the legal unit, 77 hours,
11 if I could call your attention to the next page,
12 3, 4, 5, and 6, Laws of Arrest, Search and
13 Seizure, Legal Aspects of Interview and
14 Interrogation, and Civil Liability and Use of
15 Force; did you take those units?

16 A. Yes.

17 Q. And then the Human Relations unit,
18 Unit 3, Handling the Special Needs Population; do
19 you see that?

20 A. Yes.

21 Q. Now, Mr. Gerhardstein -- if I could ask
22 you to look at Exhibit 6 -- it's in that pile
23 right there.

24 MS. MARTIN: It might be in the book.

25 MS. SEARS: Oh, it's in -- maybe in the

<http://www.yeslaw.net/help>

1 book. Oh, I'm so sorry.

2 I didn't realize there was a book.

3 BY MS. SEARS:

4 Q. Is that the -- is that what
5 Mr. Gerhardstein showed you is the -- I guess,
6 the portion of the Interacting with the Special
7 Needs Population that you took while you were in
8 the patrol academy --

9 A. Right.

10 Q. -- is that right?

11 A. Yes.

12 MS. SEARS: Can I have this marked as
13 C, please?

14 And I've given you a copy of it
15 already.

16 (Deposition Exhibit C was marked for
17 identification.)

18 MR. GERHARDSTEIN: I have Crisis
19 Intervention.

20 MS. SEARS: You should have it, as
21 well. I gave them both to you.

22 They were all in the folder.

23 MR. GERHARDSTEIN: Maybe it's in here.

24 MS. SEARS: I apologize. The paralegal
25 was supposed to make -- that's the IPC.

1 What's that right below there?

2 MR. GERHARDSTEIN: This is Crisis
3 Intervention.

4 MS. SEARS: And what's this right here?
5 That's -- that's --

6 MR. GERHARDSTEIN: That's the
7 original.

8 MR. GERHARDSTEIN: Is this --

9 MS. SEARS: Maybe I have --

10 MR. GERHARDSTEIN: Do you have Special
11 Needs? Okay.

12 Here, let me have that. We got it.

13 MS. SEARS: Okay. Good.

14 BY MS. SEARS:

15 Q. All right. So I've asked you to look
16 at what's been marked as Exhibit C.

17 MS. SEARS: I don't know where my copy
18 is now. It's here somewhere. Here it is.
19 I mismarked it.

20 BY MS. SEARS:

21 Q. And just compare that with -- if you
22 would, with Mr. Gerhardstein's Exhibit 6.

23 Does that -- do the first pages of that
24 appear to be same --

25 A. Yes.

1 Q. -- Deputy?

2 A. Yes.

3 Q. Mr. Gerhardstein's exhibit consists of,
4 I guess, nine pages -- or let me look at it --
5 eleven pages of curriculum and a couple
6 overheads; is that right?

7 Can you look at that time?

8 A. Yeah.

9 Q. Is that right?

10 A. (Nodding head.)

11 Q. And then the curriculum that I've shown
12 you that's Exhibit C, that has -- if you don't
13 mind looking at it -- about 154 pages -- well,
14 not a curriculum, there's a test at the end.

15 There's -- let's see -- 148 pages of
16 curriculum.

17 Do you see that?

18 A. Yes.

19 MS. SEARS: And then if I could have
20 this marked as Exhibit D, please.

21 (Deposition Exhibit D was marked for
22 identification.)

23 BY MS. SEARS:

24 Q. I'm showing you something that's marked
25 as Exhibit D for purposes of your deposition.

1 Does this appear to be an OPOTA, peace
2 officers training curriculum on crisis
3 intervention?

4 A. Yes.

5 Q. When we're looking at Exhibit B, which
6 is the -- the outline of the curriculum, in
7 unit 3 it says, Handling of Special Needs
8 Population and Crisis Intervention.

9 Do you recall taking both of those
10 units, Deputy?

11 A. Yes.

12 MS. SEARS: If we could mark this as E,
13 please.

14 (Deposition Exhibit E was marked for
15 identification.)

16 BY MS. SEARS:

17 Q. Deputy Huddleston, can you identify
18 this document for me?

19 A. Yes. It's the student sign-in sheet
20 from Butler Tech.

21 Q. For what -- what unit?

22 A. Interacting with special needs.

23 Q. Is your signature on that page?

24 A. It is.

25 Q. And what number is that?

1 A. Number 10.

2 MS. SEARS: If I could have this marked
3 as F, please.

4 (Deposition Exhibit F was marked for
5 identification.)

6 MR. GERHARDSTEIN: That is the same.
7 I think you meant to -- to do one of
8 the others.

9 MS. SEARS: Let me see.

10 No. This is -- this is a different
11 date. If you see, this is 2/22, and the
12 other was 2/18.

13 MR. GERHARDSTEIN: Oh, I see.

14 MS. SEARS: It's an -- it's a 16-hour
15 unit.

16 BY MS. SEARS:

17 Q. When you look at -- what did we say
18 that is, F?

19 A. Yeah.

20 Q. When you look at F, is this a sign-in
21 sheet from the Butler Tech police officer
22 training academy from February 22nd, '10?

23 A. It is.

24 Q. And is your signature on that page?

25 A. It is.

1 Q. And that is a crisis intervention unit
2 that you signed in for that class; is that right?

3 A. Yes.

4 MR. GERHARDSTEIN: Special needs.

5 MS. SEARS: Special needs. Thank
6 you.

7 (Deposition Exhibit G was marked for
8 identification.)

9 BY MS. SEARS:

10 Q. Deputy, I'm handing you what's been
11 marked Exhibit G for purposes of your deposition.

12 Is this a sign-in sheet from Butler
13 Tech Police Academy --

14 A. Yes.

15 Q. -- dated 2/19/10; is that right, at the
16 top?

17 A. 2/22/10.

18 Q. 2/22/10. Okay. I had them confused.

19 And is this a sign-in sheet for
20 interacting -- let me see; make sure I'm on the
21 right page -- crisis intervention, right?

22 A. Yes.

23 Q. Am I on the right page now?

24 A. Yes.

25 Q. Okay. And is that your signature on

1 Number 10?

2 A. It is, yes.

3 Q. Mr. Gerhardstein asked you about your
4 training once you got to the patrol division and
5 asked you to list all of your training.

6 Did you bring a list of all your
7 training with you today?

8 A. I did not.

9 Q. Did you -- did you attempt to testify,
10 to the best of your recollection, to the various
11 trainings you had?

12 A. I did.

13 Q. The sheriff -- you communicated to
14 Mr. Gerhardstein the sheriff's department may
15 have a record of those trainings; is that right?

16 A. Yes.

17 Q. But, specifically, you listed firearms.
18 I'm not sure about this; did you list
19 use of force?

20 A. Training.

21 Q. Yeah. Did you? I wasn't sure. I
22 wanted to make sure I didn't write something down
23 that you didn't say.

24 And you indicated excited delirium,
25 right?

1 A. I don't recall.

2 Q. Okay. And Taser training?

3 A. Yes.

4 Q. While we're talking about that, if you
5 don't mind looking at Exhibit --

6 MS. SEARS: Is this in the bind -- is
7 this in the book then, the excited delirium
8 training that you all had as an exhibit?
9 Would it be in your book?

10 MR. GERHARDSTEIN: The originals are
11 all in that book.

12 MS. SEARS: Exhibit 2. It's in this
13 book, here.

14 Oh, it's not. Okay. I'm sorry.

15 BY MS. SEARS:

16 Q. All right. Are you looking at
17 Exhibit 2 now?

18 A. Yeah.

19 Q. Now, I think you discussed this with
20 Mr. Gerhardstein. This is a roll call training,
21 right?

22 A. Correct.

23 Q. And do you recall when you took this
24 roll call training?

25 A. I don't remember the exact date.

1 Q. Was it before or after the incident
2 with Mr. Roell?

3 A. I've taken them before with the X2 -- I
4 mean X26.

5 I've also taken one with the X2.

6 Q. You've taken -- you've taken some Taser
7 recertification trainings, correct?

8 A. Yes.

9 Q. And you've taken roll call trainings,
10 as well?

11 A. Yes.

12 Q. So this roll call training, Exhibit 2,
13 you remember taking this training?

14 A. Yes.

15 Q. Okay. Do you remember when you took
16 it?

17 A. I don't recall.

18 Q. Where were you in -- when you were in
19 the patrol academy, did you do -- did you have a
20 unit on physical control of subjects?

21 A. Yes.

22 Q. And did you have a unit on first aid?

23 A. Yes.

24 Q. Did you have a unit on responding to
25 crimes in progress?

1 A. Yes, I believe so.

2 Q. Did you have a unit on controlling
3 nonviolent crowds and confronting possible crowds
4 of people?

5 A. Yes.

6 Q. Did you have an -- did you have a unit
7 on interview and interrogation techniques?

8 A. Yes.

9 MS. SEARS: H.

10 (Deposition Exhibit H was marked for
11 identification.)

12 BY MS. SEARS:

13 Q. I think you discussed this with
14 Mr. Gerhardstein.

15 Is this your certificate from your
16 Taser X2 training -- or X26 training?

17 A. Yes.

18 Q. And you indicated Carl Edwards was your
19 instructor?

20 A. Yes.

21 Q. And this is 12/16, 2010?

22 A. Yes.

23 Q. Were you still in corrections when you
24 had this training?

25 A. Yes.

1 Q. Were you approved to use your Taser on
2 off-duty details?

3 A. Yes.

4 Q. Did you ever have occasion to use the
5 Taser on an off-duty detail?

6 A. No.

7 Q. What's your preference, in terms of
8 subject control? What -- how do you prefer to
9 control a subject, if possible? Do you have a
10 preference?

11 A. The least possible way to -- injury for
12 myself or others.

13 Q. Who controls what level of force that
14 is necessary for you to use in any encounter with
15 a subject?

16 A. The subject does.

17 (Deposition Exhibit I was marked for
18 identification.)

19 BY MS. SEARS:

20 Q. I'm showing you what's been marked as
21 Exhibit I for purposes of your deposition. I
22 think you discussed this with Mr. Gerhardstein,
23 as well -- stein, as well.

24 This appears to be -- unless I'm
25 mistaken -- your certificate for your X2

1 certification for your Taser; is that right?

2 A. Yes.

3 Q. And I think you indicated to
4 Mr. Gerhardstein that Sergeant Orue -- who's now
5 Lieutenant Orue -- conducted your training; is
6 that right?

7 A. Yes.

8 Q. And it says November 13th, 2012, right?

9 A. Correct.

10 Q. Now, did I understand you correctly,
11 that you indicated to Mr. Gerhardstein that you
12 are recertified -- recertified on this device
13 once a year?

14 A. Yes.

15 Q. And do you know the purpose of that
16 recertification?

17 A. Just to get all the updates for
18 Tasers.

19 Q. And do those updates -- do they
20 encompass the technical aspects of the use of the
21 device, as well as the tactical use of the
22 device?

23 A. Yes.

24 Q. And I believe you explained the
25 differences between the X26 and the X2 to

1 Mr. Gerhardstein.

2 With regard to the X2, do you know if
3 it has any capabilities -- enhanced conductivity
4 capabilities, as opposed to the X26?

5 A. (Shaking head.)

6 Q. You don't know --

7 A. No.

8 Q. -- anything about that?

9 With regard to the Taser X2 -- this
10 might sound like it's kind of a dumb question.
11 But Lieutenant -- or Sergeant Orue at the time,
12 Lieutenant Orue now -- he is a supervisor with
13 the Hamilton County Sheriff's Department; is that
14 correct?

15 A. Yes.

16 Q. And did the Hamilton County Sheriff's
17 Department issue you this Taser X2?

18 A. They did.

19 Q. And did the Hamilton County Sheriff's
20 Department authorize you to use this X2 in the
21 course of your employment?

22 A. They did.

23 Q. Did they train you on the use of the
24 device in -- for use in your employment?

25 A. They did.

1 Q. Where was this training conducted?

2 A. Down at the range.

3 Q. And where is that out -- out on
4 Hamilton Avenue?

5 A. It's on -- oh, I can't --

6 Q. I'm sorry.

7 A. I can't think of the street name.

8 Q. I won't ask you your kids' birthdays.
9 All right. Just strike that; doesn't
10 really matter.

11 The range, is it -- is that a function
12 or entity controlled by the Hamilton County
13 Sheriff's Department?

14 A. Yes, it is.

15 Q. Were you required to treat -- complete
16 this mandatory training in the sheriff's
17 department before you could use this X2 device in
18 your scope of your employment?

19 A. Yes.

20 Q. In addition to the Taser use report
21 that you talked about with Mr. Gerhardstein, is
22 there also a use-of-force report that a
23 supervisor has to complete when you are involved
24 in a subject-control incident where you use
25 force?

1 A. Yes.

2 Q. And does that use-of-force report -- is
3 it mandated in a situation where you're using
4 subject control techniques, such as just grabbing
5 someone's arm and -- and getting them cuffed?

6 Is that considered a use-of-force, to
7 your knowledge, that triggers the production of
8 that use-of-force report?

9 A. No.

10 Q. Does the use of the Taser trigger the
11 use-of-force report?

12 A. Yes.

13 Q. Now, am I correct in understanding that
14 a Taser is considered to be intermediate force
15 under your continuum of force policy?

16 A. It is, yes.

17 Q. And so would any hard-hands you've
18 already defined for use, use of baton, the heel
19 of the hand, the fist, would those be uses of
20 force that would trigger that use-of-force
21 report?

22 A. Yes.

23 Q. What about pepper spray and chemical
24 irritants, would they trigger a use-of-force
25 report?

1 A. Yes.

2 Q. Just tell -- take me through the use of
3 force without necessarily looking at the policy.

4 What's your understanding -- what's
5 your lowest level -- what's your lowest level of
6 asserting your command or authority for a
7 particular situation where it's legally
8 appropriate?

9 A. Verbal -- verbal commands.

10 Q. Okay. And then what's the next step up
11 from there, if necessary?

12 A. Show of force.

13 Q. Show of force; that would be what?

14 A. That would be more officers.

15 Q. Okay, for an example.

16 Okay. What's the next step up from
17 there?

18 A. It would be hands-on, physical.

19 Q. And that's what you described as the
20 arm bar --

21 A. Just the arm bar, grabbing.

22 Q. Grabbing extremities kind --

23 A. Right.

24 Q. -- of thing?

25 And then the next up from there?

1 A. Is the intermediate force.

2 Q. And that -- you do --

3 A. Would be hard-hands, the baton, mace,
4 Taser.

5 Q. Okay. And then up from that?

6 A. Is the deadly force.

7 Q. Okay. And you've already indicated,
8 from your perspective, it's the subject that
9 dictates the level of force that you use --

10 A. Yes.

11 Q. -- in an encounter?

12 All right. So you've been on the
13 patrol for how long now, since '12 or '13?

14 A. Since 2012.

15 Q. 2012?

16 A. Three, almost three years.

17 Q. Almost three years?

18 And how many occasions have there been
19 that there's a use-of-force report that's had to
20 be drafted in response to your contact with a
21 subject?

22 A. Just one other time.

23 Q. One other, in addition to Mr. Roell?

24 A. Yes.

25 Q. And what was that all about?

1 A. That was the pursuit. The subject
2 crashed and took off running.

3 Q. That's the one you already talked
4 about --

5 A. Yes.

6 Q. -- with Mr. Gerhardstein?

7 A. Yes.

8 Q. Other than these two incidents, there's
9 never been an incident where -- where it was
10 called upon for a supervisor to evaluate your use
11 of force because you went beyond hands-on to
12 intermediate force?

13 A. No.

14 Q. Is that what you're saying?

15 A. Yes.

16 Q. Is that because you're not arresting
17 anybody?

18 A. No.

19 Q. Okay.

20 MS. SEARS: This is J.

21 (Deposition Exhibit J was marked for
22 identification.)

23 MR. GERHARDSTEIN: You know, we did ask
24 for all this stuff in discovery and did not
25 get it.

1 MS. SEARS: I thought you had -- I
2 really didn't know that this was the version
3 in effect.

4 I thought you had all this. That was
5 my understanding. I apologize.

6 BY MS. SEARS:

7 Can you identify what I've -- what I've
8 identified for purposes -- purposes of your
9 deposition as Exhibit J?

10 A. Yes. The Taser training.

11 Q. This is version 18, and this the
12 version that Mr. Gerhardstein actually referred
13 to you in your -- in his questioning before,
14 isn't it?

15 A. I -- I believe so. I don't recall.

16 Q. You don't recall that he said
17 version 18?

18 A. Right.

19 Q. With regard to your certificate, which
20 is Exhibit I, where you were trained on the X2
21 Taser -- in looking at Exhibit J, do you know, as
22 you sit here, whether this was the particular
23 version you were trained on when you got this
24 certificate, which is Exhibit I?

25 A. I -- I don't recall.

1 Q. Now, this particular -- particular
2 version 18 was released in July 2011, or so it
3 says.

4 Do you see that on the first line?

5 A. Yes.

6 Q. As you're looking at Exhibit J, do you
7 recall in your Taser training being exposed to
8 PowerPoint presentations?

9 A. Yes.

10 Q. And you'll see that below these, what
11 appear to be slides there's some other
12 information, in smaller type sometimes.

13 When you were being exposed to the
14 PowerPoint presentation in your Taser training,
15 was it just the slide as it would appear at the
16 top of the page, or did you have this whole page,
17 with this writing below, if you recall?

18 A. It was just the slide.

19 Q. Just the slides? Okay.

20 The first few slides, I think, let's
21 say 2 through 7, have to do with some -- I guess
22 I would summarize it as physicality or
23 physiological or metabolic effects of the use
24 of -- I always say Taser, but I guess that's
25 probably not the right word. I should say

1 electronic control device.

2 But you say Taser. You know that's a
3 copyrighted term, right?

4 A. Right.

5 Q. But -- so the first few slides have to
6 do with the physiological or metabolic impact or
7 involvement of an ECD with the subject. Is that
8 a fair statement?

9 A. Yes.

10 Q. Do you recall being trained on those
11 concepts?

12 A. Yes.

13 Q. Now, I think you told Mr. Gerhardstein
14 that in your training -- that you had been
15 exposed to some excited delirium concepts; is
16 that right?

17 A. Right.

18 Q. If I can call your attention to the
19 slides -- slide on page 7, Physiologically or
20 Metabolically Compromised Persons, sometimes law
21 enforcement is called upon to deal with such
22 people that are compromised that could -- and
23 those people may be susceptible to an
24 arrest-related death; is that right?

25 A. Yes.

1 Q. Do you recall being exposed to the
2 concept that different people may be susceptible
3 to an arrest-related death?

4 A. Yes.

5 Q. And down here in the comments on
6 page 7, if you'll see in the first paragraph
7 there's a sentence -- I guess it's the second
8 sentence -- that says, The factors that may
9 increase susceptibility.

10 Do you see that sentence?

11 A. Uh-huh.

12 Q. And then if you read further in that
13 sentence, it describes several -- several states
14 of metabolic or physiological impairment that
15 could increase that susceptibility.

16 Do you see that?

17 A. Yes.

18 Q. And one of the those things is excited
19 delirium, right?

20 A. Yes.

21 Q. One, two, three, four, five, six,
22 seven, eight, nine, ten, eleven, twelve,
23 thirteen -- I -- I count twelve, with another,
24 pathological conditions.

25 Do you remember whether or not you were

<http://www.yclaw.net/help>

1 exposed to these particular types of
2 susceptibilities? Do any of them sound familiar
3 to you?

4 MR. GERHARDSTEIN: In addition to
5 excited delirium, or including?

6 MS. SEARS: Yeah, including --
7 there's -- there's 12 of them listed here,
8 and other. And one of them is excited
9 delirium.

10 So I wasn't -- I didn't mean to excise
11 out excited delirium if that was the
12 concern.

13 BY MS. SEARS:

14 Q. I just wondered if these sounded
15 familiar to you at all.

16 A. Yes.

17 Q. So you recall being exposed to these
18 various kinds of states, correct?

19 A. Yes.

20 Q. Can you tell me how you might determine
21 whether somebody is having autonomic
22 dysregulation as opposed to the excited
23 delirium?

24 A. I have no idea.

25 Q. Can you tell me how someone might be

1 having a toxic withdrawal from, for example
2 psychotropic medication or PCP or heroin and how
3 that might be differentiated in its affect from
4 excited delirium; can you tell me that?

5 A. Just --

6 Q. Can -- can you tell the difference?

7 A. Not really, no.

8 Q. And for purposes of taking a subject
9 under control, does it matter what the difference
10 is --

11 A. No, it doesn't.

12 Q. -- from a law enforcement
13 perspective?

14 A. No.

15 Q. Does it matter from a tactical
16 perspective?

17 A. No.

18 Q. If you made the decision that you need
19 to take someone under -- under control, is that
20 the decision that controls you, or is there some
21 other --

22 A. That's the decision.

23 Q. The very first -- or no, Number 4,
24 Physiological and Metabolic Effects --

25 MR. GERHARDSTEIN: Where are you?

1 MS. SEARS: Page 4 -- I'm sorry --
2 page 4, Physiological and Metabolic Effects.

3 BY MS. SEARS:

4 Q. Reasonable efforts should be made to
5 minimize the number of ECD exposures.

6 Have you been exposed to that concept,
7 sir, that -- that you should be sensitive to that
8 piece?

9 A. Yes.

10 Q. That should be a variable that you
11 should consider?

12 A. Right. Yes.

13 Q. If you go back a page, page 3 -- you
14 explained to Mr. Gerhardstein that you were aware
15 of the preferred target area. Do you recall
16 having that conversation with him?

17 A. Yes.

18 Q. This slide seems to explain, perhaps,
19 why that is the case, the heart-to-dart --
20 heart-to-dart distance.

21 Do you recall being exposed to this
22 concept when you were having your Taser
23 training?

24 A. Yes.

25 Q. If I could call your attention to

1 page 5, Physiological and Metabolic Effects
2 again. This slide indicates that, Studies show
3 that ECD effects are comparable or less than
4 struggling or resisting, fighting, or fleeing.

5 Do you see that?

6 A. Yes.

7 Q. So from your perspective as a law
8 enforcement officer, particularly from a tactical
9 perspective, what is the -- what is the use of
10 the Taser? Why are you using it and when are you
11 using it and what are you hoping to accomplish
12 with the use of it?

13 A. To gain control of a subject, gain
14 compliance.

15 Q. And -- okay. So you can use it to gain
16 control, or you can use it for pain compliance?

17 A. For pain compliance, yes.

18 Q. In terms of getting control of a
19 subject, what are the tactical considerations of
20 the use of a Taser as opposed to other techniques
21 you can use to get a subject under control?

22 A. It's a --

23 Q. How is it better, how is it worse; what
24 do you think?

25 A. It has less side effects; punch

1 somebody, you might have bruises, you might break
2 their arms, you might break your hand, rather
3 than the Taser is just once -- once it's done,
4 it's done.

5 Q. What do you mean, once it's done, it's
6 done?

7 A. Once the five cycles -- once the five
8 seconds cycle, it's finished. The pain is over,
9 and you can go back to normal.

10 Q. You break somebody's arm, that's the
11 difference --

12 A. That's -- yes.

13 Q. -- from your standpoint?

14 A. Correct.

15 Q. And what about the -- the pain
16 compliance? What about that, in terms of an
17 advantage or a disadvantage over other hands-on
18 techniques?

19 Because the pain compliance is a
20 hands-on technique; am I right?

21 A. Right.

22 Q. Okay. I want to make sure. Because
23 I'm just learning about this stuff.

24 So what is the advantage, if there is
25 one -- or disadvantage, I should say -- of the

1 Taser as opposed to pain compliance techniques --
2 other pain compliance techniques, from a tactical
3 perspective?

4 A. Once again, you can -- you can break
5 your hand -- officer's hand, your -- you can
6 seriously injure the subject, rather than just
7 using the Taser as pain compliance.

8 Q. Have you been tased with the Taser in
9 the pain compliance mode?

10 A. Yes.

11 Q. Tell me what that feels like.

12 A. Feels like a thousand bee stings.

13 Q. A thousand bee sting?

14 A. Yes.

15 Q. And unlike a -- well -- well, I've been
16 stung by a wasp before. And even after the wasp
17 is dead and gone -- if I could find the -- find
18 the guy -- it hurts for a long time.

19 Is -- what effect does the Taser in its
20 drive stun mode have after you apply it?

21 A. Nothing.

22 Q. What you do mean nothing?

23 A. It's like a thousand bee stings, and
24 it's -- it's done. Once it's off, it's off and
25 it's back to normal.

1 Q. If I could call your attention to
2 page 11, please, To use the ECD in probe mode, an
3 officer must reasonably perceive the subject to
4 be an immediate threat of harm or injury.

5 Do you see that?

6 A. Yes.

7 Q. Now, with regard to Mr. Roell, you used
8 the ECD in a probe mode, didn't you?

9 A. Yes.

10 Q. Did you perceive yourself or anyone
11 else to be in an immediate threat of harm or
12 injury?

13 A. Yes, I did.

14 Q. And what -- who did you perceive to be
15 in the position of immediate threat of harm or
16 injury?

17 A. The first time of the tasing, it was
18 myself --

19 Q. Okay.

20 A. -- and Deputy Alexander.

21 Q. All right. And what if Mr. Roell had
22 been successful in reaching you before you
23 initiated the Taser? What would have been your
24 response at that point?

25 A. What would have been my response?

1 Q. Yes.

2 A. Open fists or whatever I had readily
3 available.

4 Q. Now, fists are hard-hands, right?

5 A. Yes.

6 Q. So if he -- if he, in this scenario, as
7 you've described it to us, he's coming at you,
8 not stopping?

9 A. Right.

10 Q. If he had continued to come at you and
11 not stopped, are you saying to us, at that
12 point -- it would be potentially hard-hands at
13 that point?

14 A. Yes.

15 Q. And Mr. Gerhardstein talked about the
16 plant. And the hose was also being held by
17 Mr. Roell you've indicated, right?

18 A. Yes.

19 Q. Could that hose be a weapon if
20 Mr. Roell was able to engaged your personal
21 space?

22 A. Could be, yes.

23 Q. In what way?

24 A. He can hit it with the metal end, or if
25 he was able to get it wrapped around.

1 Q. Now, Mr. Gerhardstein asked about that
2 planter, or the plant, and about what crime had
3 occurred.

4 And -- and the -- and you had indicated
5 to Mr. Gerhardstein that the crime that you may
6 have perceived having been occurred is one of the
7 variables that you consider, right?

8 A. Right.

9 Q. Is that the only variable you
10 consider?

11 A. No.

12 Q. In -- when a subject is coming at you
13 and they refuse to stop and you're not able to
14 stop them before they're in your space, meaning
15 having contact with you, is that a deadly force
16 situation, sir?

17 A. No.

18 Q. What about the fact that your firearm
19 is on your -- on your waist at that point?

20 The subject is able to gain control of
21 your person and starts struggling with you
22 personally; is that a deadly force situation?

23 A. No.

24 Q. What if they reach for your gun?

25 A. Yeah.

1 Q. Yes? All right.

2 So I think I interrupted you.

3 You indicated that you -- the first
4 time you deployed the probe in the -- in the
5 probe mode, the ECD in the probe mode, you
6 perceived a threat to yourself; is that correct?

7 A. Yes.

8 Q. And a potential injury to yourself?

9 A. Yes.

10 Q. And what about a potential injury to
11 Mr. Roell?

12 A. Yes.

13 Q. At some point, though, Mr. Roell did
14 not keep coming at you. He -- he stopped, and
15 you elected to put your Taser back and go
16 hands-on; is that right?

17 A. He continued at me, but I put it away.

18 Q. Okay. So let me ask you this.

19 If -- if he had continued at you in
20 a -- in a pace to get his hands on you, you could
21 have gone hard-hands at that point?

22 A. Right.

23 Q. But in this situation, you didn't go
24 hard-hands?

25 A. Right.

1 Q. And why is that?

2 A. Because I didn't want -- I didn't want
3 to tase him. I didn't want to injure him with
4 the hard-hands.

5 I'd rather just get him on the ground
6 as peaceful as -- as peacefully as we could.

7 Q. So even though Mr. -- Mr. Roell was
8 coming at you in an aggressive way, did you
9 believe that the three of you could get him under
10 control without -- without the Taser or without
11 hard-hands?

12 A. Yes.

13 MR. GERHARDSTEIN: Objection.

14 BY MS. SEARS:

15 Q. Can I call your attention to page 23,
16 please?

17 I think you discussed this with
18 Mr. Gerhardstein, too. So is it -- is my
19 understanding correct that the space differential
20 between you and the subject that you are tasing
21 affects the proximity of the probes as they enter
22 the subject, if you're effective in hitting him?

23 A. Right.

24 Q. And you had a conversation with
25 Mr. Gerhardstein about the fact that the further

1 away from -- the two probes are from one another,
2 then the higher degree of the NMI, the
3 neuromuscular in -- you know, involvement; is
4 that right?

5 A. Yes.

6 Q. In your two probe deployments regarding
7 Mr. Roell, how close would you say you were --
8 well, let's take the first one.

9 If you could guesstimate for us how
10 close were you to Mr. Roell when you deployed the
11 first cartridge in the probe mode?

12 A. Roughly four feet.

13 Q. I'm sorry. And the second -- the
14 second deployment in probe mode -- taking aside
15 the -- the drive stun that you did for
16 connectivity purposes.

17 A. It was probably the same, four feet.

18 Q. You indicated that your observations
19 of -- to Mr. Gerhardstein -- your observations of
20 Mr. Roell indicated to you that the -- that the
21 Taser did not take full effect; is that right?

22 A. Yes.

23 Q. And with regard to your first
24 deployment, am I correct that you indicated to
25 Mr. Gerhardstein that you felt one of the probes

1 might have attached in the reaction of
2 Mr. Roell, so you went to the hand-held sort of
3 drive stun method in order to try to create --
4 complete the circuit?

5 A. Yes.

6 Q. Is that right?

7 A. Yes.

8 Q. Can I call your attention to page 35,
9 please?

10 I think you discussed both of these
11 to -- 35 and 36 with Mr. Gerhardstein.

12 But you had indicated you were familiar
13 with the preferred target area; is that right?

14 A. Yes.

15 Q. In the comments below it says, The
16 nonpreferred target zones are not prohibited,
17 rather, they should be avoided when practical.

18 Is that your understanding of how you
19 were -- how you were trained?

20 A. Yes.

21 Q. What does practical mean to you, from a
22 tactical standpoint, officer?

23 A. When -- when available, when you're
24 able to -- when a guy's just standing still
25 letting you tase him, that would be practical.

1 Q. Okay. What would be impractical?

2 A. When he's coming at you and you're not
3 able to get the darts exactly where they're
4 supposed to split the hemisphere.

5 Q. Can I ask you to look at page 41,
6 please? This slide says, Silence is golden. No
7 change in the subject's behavior and a loud arc
8 was a bad connection.

9 Were you trained to -- to key in on the
10 subject's behavior in order to evaluate whether
11 or not the probe deployment had reached
12 connectivity?

13 A. Yes.

14 Q. And what about this noise? Do you --
15 do you know what they're -- do you know what
16 they're talking about there? Can you hear a
17 difference?

18 A. Yes.

19 Q. Do you recall whether, in this incident
20 with Mr. Roell, that you were tuned into that --
21 that sound difference?

22 A. No.

23 Q. I'm sorry?

24 A. No. I can't remember.

25 Q. The next page, 42, Tactical

1 considerations and practical attempts to gain
2 compliance using verbal commands; do you agree
3 that that's -- that that's an appropriate
4 tactical -- tactical consideration?

5 A. Yes.

6 Q. What does practical mean to you from a
7 tactical standpoint?

8 A. If you're -- if it allows -- pretty
9 much, if it allows you to gain compliance using
10 verbal commands.

11 Q. What's it?

12 A. If the subject allows you to use verbal
13 commands and complies with your verbal commands,
14 that's practical.

15 Q. Okay. And then, Display of Taser,
16 turning on the laser or arc display may gain
17 compliance.

18 Do you see that?

19 A. Yes.

20 Q. Is that what you attempted to do with
21 Mr. Roell on this date --

22 A. Yes.

23 Q. -- on the date in question?

24 Below, it says, Tasers are not a
25 substitute for common sense and good

1 communication.

2 Do you agree with that statement?

3 A. Yes.

4 Q. It says, One of the greatest advantages
5 of the Taser is its ability to sometimes stop
6 aggressive behavior simply by pointing it and the
7 laser on the subject. Do you agree with that?

8 A. Yes.

9 Q. Have you had occasion to arc your
10 Taser, even though you had to tase someone to
11 gain compliance?

12 A. No.

13 Q. No? Okay.

14 Do you recall, you know, being exposed
15 to these tactical considerations when you were
16 being trained?

17 A. Yes.

18 Q. Page 46, please. These are more
19 tactical considerations, right?

20 A. Yes.

21 Q. Avoid Taser over-dependence. Do you
22 agree that overly depending on a Taser could be a
23 wrong tactical move to make, sir?

24 A. Yes.

25 Q. Why would that be?

1 A. Because you're relying on one weapon.
2 If it fails, then you've got to find something
3 else.

4 Q. So what are you saying? You should
5 have some other tools available to you --

6 A. Yes.

7 Q. -- that you're comfortable using?

8 A. Yes.

9 Q. If I could ask you to look at page 49,
10 please. These are some slides that have to do
11 with optimum probe placement, it looks like to
12 me 48, 49, 50, 51.

13 Page 49 says, Preferred range is
14 7 to 15 feet for officer safety and accuracy.

15 Can you tell me what the tactical
16 considerations might be from an officer's safety
17 perspective of keeping a subject 7 to 15 feet --
18 7 to 15 feet from you?

19 Why would you want to keep a subject
20 7 to 15 feet away from you?

21 A. Because you want to limit the risk of
22 injury to yourself if he decides to throw
23 something at you.

24 Distance is key.

25 Q. Distance is key to what?

1 A. It's the key to anybody's safety;
2 officer safety, with the subject further away
3 than close.

4 Q. What's -- this says, A lousy officer
5 may remain outside of the reactionary gap. Do
6 you know what that means?

7 A. Where is it?

8 Q. In these comments on page 49, the very
9 last sentence.

10 These factors seems to be the best
11 overall compromise, because a lousy officer may
12 remain outside the reactionary gap.

13 Are they talking about the -- the
14 ability of the subject? I don't -- or do you
15 know -- to get to you?

16 A. They're talking about within that seven
17 feet, he can like pull a knife or something on
18 you before you can even react and grab your Taser
19 and whatnot.

20 Q. Oh, so within seven feet, there's --
21 there's a gap in your ability to react to them?

22 A. Right.

23 Q. Oh. I didn't know that's what they
24 meant.

25 Is that another reason to try to keep

1 the subject beyond seven feet from you?

2 A. Right.

3 Q. Could I ask you to look at slide 54 --
4 or page 54, more properly -- I'm sorry --
5 Controlling, Cuffing Under Power. This is a
6 concept that you discussed with Mr. Gerhardstein.

7 Can you correct me? If I understand
8 that, cuffing under power means you've deployed
9 probes and it's effective and the person is
10 incapacitated and you've got maximum NMI at that
11 point and you can cuff them because they're
12 powerless to resist?

13 Is that right?

14 A. Yes.

15 Q. This particular slide, EDPs, focused,
16 intoxicated, excited delirium individuals may not
17 comply with verbal commands.

18 Do you see that?

19 A. Yes.

20 Q. Do you recall being exposed to that in
21 your training?

22 A. Yes.

23 Q. This -- I have a question about 55.

24 Again, Tactical Considerations, the
25 third bullet, If only one probe hits, or low

1 probe spread, consider a drive stun follow-up
2 with the cartridge still in place.

3 Is -- I wasn't sure, is that what you
4 did the second time, is this --

5 A. (Nodding head.)

6 Q. Okay.

7 A. Yes.

8 Q. I wasn't sure.

9 The last sentence there, A small -- on
10 the comments, A small or limited probe spread may
11 not achieve NMI in drive stun follow-up away from
12 the impact site, should increase the
13 effectiveness of the deployment.

14 Do you remember being exposed to this
15 in your training?

16 A. Yes.

17 Q. Is that what you were trying to do with
18 Mr. Roell?

19 A. Yes.

20 Q. Slide -- or I should say page 56, Look
21 for a change in behavior.

22 This looks like another slide or
23 another training point that tells you to focus on
24 the subject to determine effectiveness of the
25 device; is that right?

1 A. Yes.

2 Q. In your training, did you practice with
3 the device itself?

4 A. Yes.

5 Q. And did -- you may have discussed this
6 with Mr. Gerhardstein. I'm sorry if I'm beating
7 it -- you know, beating it to death. That's -- I
8 don't remember exactly what you all talked about.

9 Did you practice looking at the
10 changes in the behavior of the persons who were
11 effectively deployed with probe device? Did
12 you -- did you look at them and did the
13 instructor talk about what the changes were and
14 you had sort of a hands-on experience with that?

15 A. Yes. They laid us down and they'd clip
16 us, clip one probe here, and they would clip on
17 there, so they get a good shot with it.

18 Q. Uh-huh.

19 A. And then they turn it off for a second
20 and you can feel it. And you can also see the
21 other individuals take it, as well.

22 And they also put it close together, so
23 you can see how they -- how they react to that
24 still, as well.

25 Q. Did you watch videos --

1 A. Yeah.

2 Q. Off different people being tased and
3 examine probe placement and that sort of thing --

4 A. Yes.

5 Q. -- to see the differences?

6 A. Yes.

7 Q. I'm -- I'm thinking from what you're
8 saying is they didn't have anybody stand up and
9 fall down, because --

10 A. Right.

11 Q. -- then you might get hurt?

12 A. Right.

13 Q. But I guess my questions was, were
14 you -- did you watch videos --

15 A. Yes.

16 Q. -- where you saw that? Okay.

17 A. Watched videos, yes.

18 Q. Page 58, If no change in the behavior,
19 employ other force options. Other alternatives
20 are disengage; is that right?

21 A. Yes.

22 Q. Do you see that?

23 Now, with regard to Mr. Roell, did you
24 employ other force options?

25 A. Just the hands-on.

1 Q. Did you ever go hard-hands with him?

2 A. I didn't, no.

3 Q. Did you ever see anyone else go
4 hard-hands with him?

5 A. No, I didn't.

6 Q. Do you use your baton?

7 A. No, I didn't.

8 Q. Did you mace him?

9 A. No, I didn't.

10 Q. And it says, Or disengage.

11 Do you see that?

12 A. Yes.

13 Q. Now, Mr. Gerhardstein has asked you
14 some questions about why you simply dis -- did
15 not disengage. Did you think that that, from a
16 tactical standpoint, was an appropriate
17 response?

18 A. No.

19 Q. Why?

20 A. Like I said, we can -- he's already
21 fighting with us, he apparently already broke
22 things in the back. It was undetermined what he
23 broke.

24 But he could easily go inside and hurt
25 the family or break other things and hurt

1 himself.

2 MS. SEARS: Sorry. I just want to
3 check something out.

4 Can you go ask Karen to make a copy of
5 that, please?

6 I won't wait until that's done.
7 I'll -- I'll keep on. And then I'll come
8 back to that so we don't take up too much
9 time.

10 I'm at a terrible age where I have to
11 take off my glasses to read and put them
12 back on so I don't break my neck. So I
13 apologize.

14 I guess this would be J.

15 THE REPORTER: K. Yeah, K.

16 THE WITNESS: K.

17 MS. SEARS: Oh, it would be K? Okay.
18 I'm sorry.

19 That's the other thing I don't do, is
20 keep track. I'm a high-maintenance lawyer.

21 (Deposition Exhibit K was marked for
22 identification.)

23 BY MS. SEARS:

24 Q. I've -- I've given you a bound set of
25 photographs, Officer, that have been marked as

1 Exhibit K for purposes of your deposition. Some
2 of these have already been marked by
3 Mr. Gerhardstein. So I'm not going to beat these
4 to death. I -- I would like to go over them kind
5 of briefly with you, though.

6 When we look at the first photograph
7 here -- I'm disappointed because -- okay.

8 MS. SEARS: They do have numbers, guys.
9 The court reporter's copy has nice numbers
10 in white.

11 Our numbers are -- you can see them.
12 They're right down here if you can discern
13 them.

14 Can you see that, Jaci? Sorry about
15 that.

16 MS. MARTIN: Oh.

17 MS. SEARS: Yeah.

18 But the court reporter's copy has a
19 nice -- nice ones in little boxes that we
20 did by hand.

21 At any rate --

22 BY MS. SEARS:

23 Q. I just want to ask you generally about
24 these photographs here, Deputy Huddleston.

25 They appear fairly well lit to me. Is

1 this the lighting of the scene as you all
2 approached it that night?

3 A. No, it was not.

4 Q. I'm sorry?

5 A. No.

6 Q. And how is it different? Can you tell
7 me?

8 A. My recollection, it was a lot darker.

9 Q. Do -- did you take these pictures?

10 A. I did not.

11 Q. All right. So were you there when they
12 were taken?

13 A. I don't think so.

14 Q. So if there was extra lighting that was
15 placed by whoever took these pictures to light up
16 the scene for law enforcement investigation
17 purposes, you wouldn't know that, necessarily,
18 would you?

19 A. No.

20 Q. There -- in the third picture, there
21 does appear to be a streetlight in that picture.

22 A. Right.

23 Q. Were the streetlights lit, if you
24 recall?

25 A. I don't recall.

1 Q. If I can draw you to the third picture,
2 number 3 -- and I think Mr. Gerhardstein may have
3 asked you about this one -- that condo to the far
4 right, I guess it is maybe 10929.

5 Do you see that?

6 A. Yes.

7 Q. Was that door open or closed?

8 A. It was open.

9 Q. And you indicated to Mr. Gerhardstein
10 that you didn't notice 102 -- 10927 as being
11 open.

12 A. Right.

13 Q. Were -- were you dispatched to 102 -- I
14 can't read this -- 10929?

15 A. Yes.

16 Q. And as you're responding, is finding
17 10929 your focus?

18 A. Yes. The complainant was actually at
19 the door -- that's why it was open -- yelling at
20 me to go to the back.

21 Q. And then if we flip to page -- to
22 picture 5, this is what you discussed with
23 Mr. Gerhardstein.

24 Is this the way that you went to the
25 back of the condo complex?

1 A. Yes.

2 Q. Do you see any landscaping or anything
3 disturbed there?

4 A. No.

5 Q. Now, was this lit at all when you ran
6 back that way?

7 A. No.

8 Q. Okay. So -- I mean, how were you able
9 to make your way?

10 Mr. Gerhardstein asked you about a
11 flashlight. How were you able to make your way
12 back there?

13 A. I think the back -- back porch light
14 was on or back -- I think they have a spotlight
15 in the back --

16 Q. Okay.

17 A. -- that was on.

18 So it was just somewhat lit up in the
19 back. You could see the -- the back of the
20 house.

21 Q. So you could kind of see where you were
22 going to?

23 A. Correct.

24 Q. I think Mr. Gerhardstein asked you
25 about these next couple of pictures. So I

1 won't -- we won't beat these things to death.

2 But the next pictures like 8, 9, 10,
3 11, those next few pictures, do you recognize
4 that as the patio of the complainant?

5 A. Yes.

6 Q. Now, other than -- well, let me ask you
7 this.

8 On picture 8, now that -- how that
9 we're looking at it, can you see that broken
10 window right there?

11 A. Yes.

12 Q. And you see that screen on the floor?

13 A. Yes.

14 Q. Do you remember observing that when you
15 first went onto the patio with Mr. Roell?

16 A. No.

17 Q. There seems to be some kind of
18 something under that window on siding or the -- I
19 don't know if that's siding, wood, or what.

20 Do you see that? It looks like mud or
21 dirt or something? I don't know.

22 A. Yes.

23 Q. Do you see that?

24 A. Yes.

25 Q. Did you happen to notice that?

1 A. No.

2 Q. Now, all the -- it looks to me like all
3 the chairs and other plantings are upright and
4 undisturbed. Is that your -- what you see, as
5 well?

6 A. It's what I see. I don't know if it
7 was --

8 Q. I mean, do you see any chairs tipped
9 over or anything undisturbed --

10 A. No.

11 Q. -- or anything disturbed particularly
12 than stands out to you in this other one we just
13 looked at?

14 A. No.

15 Q. And there are some pots on the ground
16 that are upright and undisturbed.

17 Do you see those?

18 A. Yes.

19 Q. If I could call your attention to 6 --
20 page 16, this is past the couple of photographs
21 that Mr. Gerhardstein already showed you. So I
22 won't bother you with those.

23 But this at least appears to be the
24 inside -- the next two pictures -- the inside of
25 that window that was broken.

1 Did you ever go inside and see the
2 inside of the inside here? Have you ever seen
3 this before?

4 A. No.

5 Q. The next picture, 17, that looks like
6 a -- some kind of ceramic pot or something on the
7 ground. Is that -- does it look like that to
8 you?

9 A. Yes.

10 Q. You nev -- you never saw that?

11 A. No.

12 Q. Now, the next series of pictures, 18,
13 19, 20, and on, 22; did you ever see -- did you
14 ever see this patio?

15 A. No, I had not.

16 Q. You have no idea whether this is
17 Mr. Roell's patio or not?

18 A. Right.

19 Q. You never had occasion --

20 A. I have --

21 Q. Did you ever go to Mr. Roell's
22 apartment or his patio then?

23 A. I have not.

24 Q. The next pictures, I think, are
25 pictures -- well, at least the first picture, 25,

1 Mr. Gerhardstein showed you. And I think you
2 told him you didn't see these mailboxes.

3 Is that -- am I right, that you told
4 him that?

5 A. Correct.

6 Q. And so the next few pictures are sort
7 of the same idea. And as we go through like
8 through 31, we see some cars on the ground and in
9 the carport.

10 As you glance through those pictures,
11 did you notice or observe any of that before --
12 before you came into contact with Mr. Roell in
13 the patio area that night?

14 A. I did not. I was looking to the right
15 the entire way around, looking at the
16 addresses.

17 Q. Okay. And then if we could just flip
18 to page 48 --

19 MR. GERHARDSTEIN: 38?

20 MS. SEARS: 48. And tell me when
21 you've got it, Al, because -- I apologize.
22 It's a little hard to see in the corner
23 there.

24 MS. SEARS: Oh, I can't see that.

25 Ten minutes. I'm sorry.

1 BY MS. SEARS:

2 Q. Just, beginning with that picture, sort
3 of flipping through those pictures, did you have
4 any occasion to go into Mr. Roell's condo --
5 Mr. Roell's condo that night?

6 A. I did not.

7 Q. And as we flip through these pictures
8 through -- keep flipping through 56, 57, and on
9 through, did you observe any of this disturbance
10 or destruction in the Roells' condo that night?

11 A. I did not. This is the first time I'm
12 seeing it.

13 Q. It's the first time you've seen any of
14 this?

15 A. Yes.

16 Q. Do you know who took these pictures?

17 A. I have no idea.

18 Q. And just keep flipping through. If you
19 can just kind of flip through and just -- if you
20 see anything that looks familiar to you -- if
21 you'll just let me know.

22 And then when you get to like 91, there
23 are some more outside pictures. I just want to
24 see if you recall seeing anything that was
25 outside.

1 Okay. And did you -- on page 91, it
2 looks like a water -- water faucet that's
3 running. Did you --

4 MR. GERHARDSTEIN: So wait a minute.
5 Can he answer your question?

6 MS. SEARS: Oh, yes.

7 MR. GERHARDSTEIN: So from 48 to 91,
8 you never saw any of that?

9 THE WITNESS: No. This is the first
10 time I've seen any of these pictures.

11 MS. SEARS: I'm sorry. That was
12 probably --

13 MR. GERHARDSTEIN: That's okay.

14 MS. SEARS: I inartfully asked that
15 question. I apologize.

16 BY MS. SEARS:

17 Q. 91 is a -- it looks like a faucet with
18 water running. Did you observe a faucet with
19 water running that night?

20 A. No.

21 Q. And then If you'll just flip through
22 the rest of these -- and there's some outside and
23 inside -- and just tell me if you've ever seen
24 any of those pictures before.

25 A. I have not seen any of those.

1 Q. Okay.

2 (Deposition Exhibit L was marked for
3 identification.)

4 BY MS. SEARS:

5 Q. I'll just show you what's been marked
6 as Exhibit L for purposes of your deposition.

7 Are you familiar with the general
8 order -- 316 Taser -- excuse me. It's not
9 Taser -- electronic stun gun -- stun device
10 policy?

11 A. Yes.

12 Q. If I could call your attention to
13 216.05, 10, which is -- which is the portion
14 right before 216.06. It's page 6 at the top.

15 I'm sorry. How's that?

16 A. Yeah.

17 Q. How about page numbers? That might
18 help us.

19 Do you see number --

20 MR. GERHARDSTEIN: Wait a minute. I'm
21 not there yet.

22 MS. SEARS: Page 6, when you're ready.

23 You ready, Al; page 6?

24 MR. GERHARDSTEIN: Yeah.

25 BY MS. SEARS:

1 Q. Do you see .10?

2 A. Yes.

3 Q. Applications of the device are to be in
4 accordance with the departmental training
5 program and application techniques.

6 Do you see that?

7 A. Yes.

8 Q. Is that your understanding, that you
9 needed to use the Taser in accordance with your
10 training?

11 A. Yes.

12 Q. Okay. And then if I can call your
13 attention to page 8, this would be 216.06, Post
14 Use Action Required, 1(e) do you see e,
15 application of the Taser stun device will require
16 medical treatment if?

17 A. Yes.

18 Q. Do you see that?

19 A. Yes.

20 Q. Can you look at number 5 for me? The
21 subject has exhibited signs of extreme
22 uncontrolled agitation or hyperactivity prior to
23 the device application.

24 Do you see that?

25 A. Yes.

1 Q. Did Mr. Roell exhibit some uncontrolled
2 agitation to you?

3 A. Yes.

4 Q. Did you call for a medical squad?

5 A. Yes.

6 MS. SEARS: Oh, is it five minutes?

7 Should we break five minutes, or should
8 I keep going?

9 MR. GERHARDSTEIN: You're asking the
10 questions.

11 MS. SEARS: Well, I don't know.

12 Do you want me to keep going?

13 MR. GERHARDSTEIN: No. Why don't you
14 just --

15 MS. SEARS: Yeah. Let's take a break.
16 Because you know if I keep going, we'll run
17 out of tape.

18 But I'm almost done.

19 THE VIDEOGRAPHER: We are off the
20 record. The time is 3:39 p.m.

21 (Off the record.)

22 BY MS. SEARS:

23 Q. Can I call your attention to Exhibit 7,
24 which is Mr. Gerhardstein's Exhibit 7? This is
25 the attorney general's -- Mike DeWine's

1 PowerPoint on deescalation, right, Deputy
2 Huddleston?

3 A. Yes.

4 Q. If you go about one, two, three -- four
5 pages into that -- I don't know if there's page
6 numbers or not -- there's something called a
7 deescalation decision tree.

8 Do you see that?

9 A. Yes.

10 Q. Do you see that?

11 A. Yes.

12 Q. Have you ever seen this before?

13 A. I think so, yes.

14 Q. And so there's a -- there's one little
15 box that says Conflict. And there's the next box
16 that says Threat Assessment.

17 Do you see that?

18 A. Yes.

19 Q. And if you assess a -- I guess, if the
20 officer assesses a threat and they answer yes to
21 that, you're supposed to go to the use-of-force
22 continuum.

23 Do you see that?

24 A. Yes.

25 Q. If you don't assess a threat, then

1 you -- looks like you go no, and you go up to
2 whether this is a medical encounter.

3 Do you see that?

4 A. Yes.

5 Q. And then if you say yes or no there's
6 some commands or at least some training
7 recommendations about deescalation.

8 Do you see that?

9 A. Yes.

10 Q. In terms of your interaction with
11 Mr. Roell, did you assess a threat, that
12 Mr. Roell was threatening you?

13 A. Yes.

14 Q. And did you move then into the use of
15 force continuum?

16 A. Yes.

17 MS. SEARS: Okay. That's all.

18 FURTHER EXAMINATION

19 BY MR. GERHARDSTEIN:

20 Q. You said that the officer responds to
21 the suspect in terms of trying to figure out how
22 much force to use, right?

23 A. Yes.

24 Q. But the officer also is the one in
25 charge of how fast and how rapidly to move the

<http://www.yclaw.net/help>

1 situation along, right?

2 A. No.

3 Q. So if you are in a situation and you're
4 the one who says to the suspect, show me your
5 hands, get down on the ground, you're -- you want
6 something done right then, right, you want that
7 response right then?

8 A. Yes.

9 Q. Okay. And you're the first one to
10 speak when you encountered Mr. Roell, right?

11 A. I'm not sure if I was or
12 Deputy Alexander was.

13 Q. All right. But either way, it was an
14 officer who gave a command, right?

15 A. Yes.

16 Q. And then you saw a man with a flower
17 pot -- or a flower hanger and a hose.

18 Those are not the most serious weapons
19 you've ever seen, right?

20 MS. SEARS: Objection.

21 A. They're not the most serious weapons,
22 no.

23 BY MR. GERHARDSTEIN:

24 Q. Okay. And he didn't swing either of
25 those things until you grabbed him, right?

1 A. Until I grabbed his arm.

2 Q. Right.

3 A. Swung the hanging basket at me, yes.

4 Q. And he never kicked until you were
5 trying to subdue him, right?

6 A. Once he was on the ground and I tried
7 putting him in handcuffs, yes.

8 Q. And the kicking was more in the nature
9 of flailing and just being out of control, right?

10 A. Being combative, yes.

11 Q. Trying to not be restrained, right?

12 A. Yes; resisting.

13 Q. And when you look at this diagram that
14 we were just looking at, and you do a threat
15 assessment on those facts, and you look at the
16 man who's naked from the waist down, holding this
17 flower holder and hose, at that point, you don't
18 see a clear and present danger, right?

19 A. As he's charging at me with them, yes,
20 I do.

21 Q. Well, he is -- he's coming toward you
22 after you say, show me your hands, right?

23 A. We asked him what he was doing. And he
24 turned around and started coming at us.

25 Q. And you said, show me your hands and

1 get down on the ground, right?

2 A. Yes.

3 Q. And you had a gate between you and him,
4 right?

5 A. Right.

6 Q. And you could close the gate, right?

7 A. I could have.

8 Q. And there came a time during the
9 encounter when the gate was closed and he was on
10 the other side, right?

11 A. Right.

12 Q. So when you think about disengaging,
13 you disengage, as you learned in your Taser
14 training, when the tactics you've chosen are not
15 working, right?

16 A. I also learned in my Taser training, as
17 the five-second cycle is going, to go in there
18 and try to handle the threat.

19 Q. Right. But you don't have to?

20 A. I don't have to --

21 Q. Okay.

22 A. -- do anything.

23 Q. Right.

24 A. But I was called there for a reason, to
25 do something.

1 Q. Well, right. But you weren't called
2 there for a reason to do something within the
3 first minute that you saw him, right?

4 MS. SEARS: Objection.

5 BY MR. GERHARDSTEIN:

6 Q. You were called to handle the situation
7 as peacefully as possible, right?

8 A. Yeah.

9 Q. And you didn't see Mr. Roell attack any
10 citizen, right?

11 A. I didn't see him.

12 Q. And you didn't see him even hurting any
13 property when you were there, right?

14 A. I didn't see him hurting.

15 Q. So if you had chosen to look at all the
16 factors in front of you, regroup, and formulate a
17 plan consistent with the excited delirium
18 training, you would have had time to do that,
19 right?

20 A. No.

21 MS. SEARS: Objection.

22 BY MR. GERHARDSTEIN:

23 Q. You have no idea whether he was going
24 to just stand there on the other side of the gate
25 or whether he was going to do any property

1 damage, right?

2 A. Exactly.

3 He already did property damage, so who
4 knows how far he could have escalated the
5 situation?

6 Q. And if he had done property damage on
7 your watch, you could have responded to that,
8 right?

9 A. But he was breaking things already.
10 So he did property damage.

11 Q. But he wasn't when you were there?

12 A. According to the home owner, he was
13 back there breaking things.

14 Q. Right.

15 A. Right.

16 Q. But you had the opportunity to develop
17 a safer plan, and you chose not to do it --

18 MS. SEARS: Objection.

19 BY MR. GERHARDSTEIN:

20 Q. -- right?

21 MS. SEARS: Objection.

22 A. No.

23 BY MR. GERHARDSTEIN:

24 Q. So in all of this training that you've
25 just reviewed, is there anything that you wanted

1 to learn that you didn't get a chance to learn
2 before you were deployed on the road patrol?

3 Is there anything you asked to take a
4 class in and you weren't allowed to do it or
5 didn't get to do it?

6 A. No.

7 Q. And did you feel that your training was
8 adequate for the encounters that you had on the
9 road patrol?

10 A. Yes.

11 Q. And did you feel that you needed any
12 more training at all with respect to handling
13 mentally ill suspects and those that exhibit the
14 signs of excited delirium before you were ready
15 to deal with somebody like Mr. Roell?

16 MS. SEARS: Objection.

17 A. It's always nice to get more training.

18 BY MR. GERHARDSTEIN:

19 Q. Did you think you had enough in order
20 to competently assess the situation that you
21 faced with Mr. Roell and then deal with it
22 appropriately?

23 A. Yes.

24 Q. Now, you were asked some questions
25 about Mr. Roell.

1 He never reached for your weapon,
2 right?

3 A. No. I never said he did.

4 Q. Okay. And --

5 MS. SEARS: Hey, Al, I'm sorry.
6 These guys have to pick up their kids.
7 Matt has to pick up his kids by 4:00.

8 Willy has to be gone by 4:30.

9 So we were wondering if we could let
10 them go and maybe start a little earlier
11 tomorrow to try to get them done. So --

12 MR. GERHARDSTEIN: All right. Can we
13 start at 8:00?

14 MS. SEARS: You don't have to work
15 tomorrow, do you?

16 Well, yeah. They work tomorrow night.
17 So maybe we can get them done so they can
18 get home and get some sleep. That's the
19 only thing I'm concerned about.

20 They -- they don't work tonight, right?

21 But they work --

22 MR. GERHARDSTEIN: We can go off the
23 record.

24 THE REPORTER: Off?

25 THE VIDEOGRAPHER: We are off the

1 record at 3:57 p.m.

2 (Off the record.)

3 We are back on the record at 4:10 p.m.

4 BY MR. GERHARDSTEIN:

5 Q. When you arrived at the complainant's
6 condo, you said Officer Alexander was already
7 there, right?

8 A. He had just pulled in right in front of
9 me, yes.

10 Q. And did he exit his cruiser first, or
11 did you?

12 A. He did.

13 Q. At what point did you take out your
14 Taser?

15 A. As I was running around the side of the
16 house, when the complainant said he was out back
17 breaking things.

18 I looked at Deputy Alexander. He
19 either had his gun out or hand on his gun or he
20 was -- I thought he had gotten his gun out.

21 So I don't know what she said to him
22 prior.

23 That's what I thought.

24 Q. And when Deputy Alexander got to the
25 gate and was standing next to you, before he

1 opened the gate, did he have his gun out?

2 A. I don't -- I don't know.

3 Q. At that point, did you think he had his
4 gun out?

5 A. I thought he might still have his gun
6 out.

7 Q. Did you talk to him about why he had
8 his gun out?

9 A. No.

10 Q. But based on your interpretation that
11 he had his gun out, you had your Taser out?

12 A. Right.

13 Q. As we sit here today, do you know now
14 that he had neither his gun nor his Taser out?

15 A. I don't know.

16 Q. So your Taser was out before you ever
17 opened the gate and started encountering Gary
18 Roell, right?

19 A. Right.

20 MR. GERHARDSTEIN: All right. Anything
21 else?

22 I don't have any other questions.

23 MS. SEARS: No follow-up. Thank you.

24 THE VIDEOGRAPHER: You have the option
25 to read through your transcript. Would you

1 like to do that, or would you like to waive?

2 MS. SEARS: We'll take signature.

3 THE VIDEOGRAPHER: And you also have
4 the option to view your video before a court
5 or jury sees it.

6 Would you like to do that, or would you
7 like to waive that right?

8 MS. SEARS: We'll do that, too, as long
9 as we're doing signature.

10 THE VIDEOGRAPHER: Then we're off the
11 record at 4:12 p.m.

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DEPOSITION ADJOURNED AT 4:12 P.M.

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1 C E R T I F I C A T E

2


3 STATE OF OHIO :
4 : SS
5 COUNTY OF HAMILTON :

6 I, Wendy Haehnle, the undersigned, a
7 duly qualified and commissioned notary public
8 within and for the State of Ohio, do certify that
9 before the giving of his deposition, DEPUTY JOE
10 HUDDLESTON was by me first duly sworn to depose
11 the truth, the whole truth and nothing but the
12 truth; that the foregoing is the deposition given
13 at said time and place by DEPUTY JOE HUDDLESTON;
14 that I am neither a relative of nor employee of
15 any of the parties or their counsel, and have no
16 interest whatever in the result of the action.

17 IN WITNESS WHEREOF, I hereunto set my hand
18 and official seal of office at Cincinnati, Ohio,
19 this 15th day of June 2015.

20

21

22 
Wendy Haehnle
Notary Public - State of Ohio
My commission expires September 3, 2017

23

24

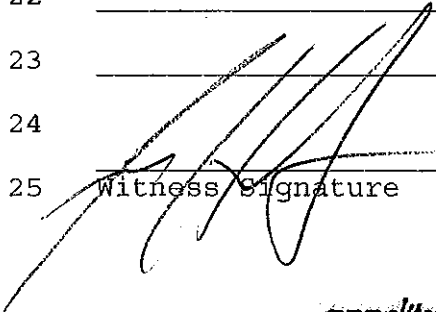
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1 E R R A T A S H E E T

2 DEPOSITION OF: DEPUTY JOE HUDDLESTON
3 TAKEN: JUNE 4, 2015

4 Please make the following corrections to my
5 deposition transcript:

6	Page	Line Number	Correction Made
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Witness Signature  Date 7.8.15